

FIFTH REPORT
OF THE
BOARD OF RAILWAY COMMISSIONERS
FOR CANADA

FOR THE YEAR ENDING MARCH 31

1910

PRINTED BY ORDER OF PARLIAMENT



OTTAWA

PRINTED BY C. H. PARMELEE, PRINTER TO THE KING'S MOST
EXCELLENT MAJESTY

1910

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

Hon. J. P. MABEE, Chief Commissioner.

D'ARCY SCOTT, Assistant Chief Commissioner.

Hon. M. E. BERNIER, Deputy Chief Commissioner

JAS MILLS, Commissioner.

S. J. McLEAN, Commissioner.

A. D. CARTWRIGHT,
Secretary.

CONTENTS.

	PAGE.
Amendment to Railway Act, Rates for Electrical Power..	7
Amendment to Railway Act, Chapter 32..	8
Accidents..	112
Carriage of Silver and other valuable Ores..	37
Car doors for grain and other cars..	64
Complaint of Western Associated Press..	69
Engineering Department..	112
Equipment of Passenger Coaches with Fire Extinguishers..	20
Equipment of Vans with couplers, operating levers, gauges, and air controlling valves..	57
Flag Stations..	67
General Concurrence Notices to cover joint tariffs issued by Canadian Railways.	65
General Regulations affecting Highway Crossings..	68
Interswitching..	110
Informal Complaints..	111
Judgments of the Board..	110
Level Crossing Protection and Grade Elimination..	37
Montreal Street Railway Case..	70
Offices of the Board..	112
Operating Department..	112
Public Sitzings of the Board..	13
Railway Fencing and Cattle Guards..	21
Rules for Loading Long Material and Stone on Flat or Open Cars..	40
Regulations for the Carriage of Explosives..	40
Rules for wires crossing Railways..	57
Resuscitation from apparent death from Electric Shock..	109
Routine Work of the Board..	111
Record Department..	111
Secretary's Department..	111
Traffic Department..	112
Uniform Bill of Lading..	14
Uniform Code for Canadian Railways—Train Rules..	20
Weighing of Coal at Port of Entry..	63

APPENDICES.

'A'.—Complaints filed with the Board during the year ending March 31, 1910.	113
'B'.—List of applications heard at public Sitzings of the Board for the year ending March 31, 1910..	132
'C'.—Principal judgments delivered by the Board during the year ending March 31, 1910..	197

‘D’.—Report of the Chief Traffic Officer..	324
‘E’.—List of inspections made by Engineering Department of the Board from April 1, 1909, to March 31, 1910..	334
‘F’.—Report of Chief Operating Officer..	352
‘G’.—Staff of Board of Railway Commissioners for the year ending March 31, 1910..	379
‘H’.—Rules and Regulations of the Board..	381
‘I’.—Catalogue of books in Library of Board of Railway Commissioners for Canada..	397
‘J’.—Statement showing applications made to the Board under the various sections of the Railway Act for the year ending March 31, 1910..	405
‘K’.—List of Cases appealed to the Supreme Court since February 1, 1904, to March 31, 1910..	406

FIFTH REPORT
OF THE
BOARD OF RAILWAY COMMISSIONERS FOR CANADA

OTTAWA, ONT., March 31, 1910.

To His Excellency the Governor in Council:

Pursuant to the provisions of Section 62 of the Railway Act, the Board of Railway Commissioners for Canada has the honour to submit its fifth report, for the year ending March 31, 1910.

Since the submission of the Board's last report, the Railway Act has been amended in certain important particulars under and by virtue of chapter 31, 8-9 Edward VII., entitled an Act to amend the Railway Act, assented to April 7, 1909, adding section 360-A, respecting rates for electric power, &c., and also by chapter 32, 8-9 Edward VII. assented to May 19, 1909. The following are the amendments above referred to: 8-9 Edward VII., chapter 31.

8-9 EDWARD VII.

CHAP. 31.

An Act to amend the Railway Act:

(Assented to April 7, 1909).

HIS MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The Railway Act, chapter 37 of the Revised Statutes, is amended by inserting the following section immediately after section 360 thereof:—

RATES FOR ELECTRICAL POWER, &C.

360-A. Where, in any case, water-power has been acquired under lease from the Crown for the development of electricity and a condition or provision of such lease is, in effect, that in the case of any dispute arising or non-agreement between the lessee from the Crown an applicant for the purchase of electricity so developed as to the price to be paid for such electricity the Board shall determine and fix such price, then, and in any such case, the Board shall have power to determine and fix the maximum price which the lessee may demand from such applicant, and at which the lessee shall furnish such electricity if the applicant shall then require it.

1 GEORGE V., A. 1911

‘2. For the purpose of determining and fixing such price the Board may enter on and inspect the property leased from the Crown and all erections and machinery thereon, and may examine all papers, documents, vouchers, records and books of every kind, and may order and require the lessee and any other persons to attend before the Board and be examined on oath, and to produce all papers, documents, vouchers, records and books of every kind; and for the purposes aforesaid the Board shall have all such powers, rights and privileges as are vested in a superior court.’

2. Sections 370 and 371 of the said Act are repealed, and the following sections are substituted therefor:—

‘370. Every company shall annually prepare returns, in accordance with the forms for the time being required and furnished by the Minister, of its capital, traffic and working expenditure and for all other information required.

‘2. Such returns shall be dated and signed by and attested upon the oath of the secretary, or some other chief officer of the company, and shall also be attested upon the oath of the president, or, in his absence, of the vice-president or manager of the company.

‘3. Such returns shall be made for the period beginning from the date to which the then last yearly returns made by the company extend, or, if no such returns have been previously made, from the commencement of the operation of the railway, and ending with the last day of June in the then current year.

‘4. A duplicate copy of such returns, dated, signed and attested in manner aforesaid, shall be forwarded by such company to the Minister within one month after the first day of August in each year.

‘5. The Minister shall lay before both Houses of Parliament, within twenty-one days from the commencement of each session thereof, a statistical report prepared in the Department of Railways and Canals covering the returns made and forwarded to him in pursuance of this section.

‘371. Every company, if required by the Minister so to do, shall prepare returns of its traffic weekly, that is to say, from the first to the seventh of the month, inclusive, from the eight to the fourteenth, inclusive, from the fifteenth to the twenty-first, inclusive, and from the twenty-second to the close of the month, inclusive.

‘2. Such returns shall be in accordance with the forms for the time being required and furnished by the Minister.

‘3. A copy of such returns, signed by the officer of the company responsible for the correctness of such returns, shall be forwarded by the company to the Minister within seven days from the day to which the said returns have been prepared.

‘4. The Minister may in any case extend the time within which such returns shall be forwarded.’

3. Schedules one and two to the said Act are repealed.

8-9 EDWARD VII.

CHAP. 32.

An Act to amend the Railway Act.

(Assented to 19 May, 1909).

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Section 8 of chapter 61 of the statutes of 1908 is repealed, and the following is enacted as section 26a of the Railway Act:—

‘26a. Where it is complained by or on behalf of the Crown or any municipal or other corporation or any other person aggrieved, that the company has violated or committed a breach of an agreement between the complainant and the company—or by the company that any such corporation or person has violated or committed a

SESSIONAL PAPER No. 20c

breach of an agreement between the company and such corporation or person—for the provision, construction, reconstruction, alteration, installation, operation, use or maintenance by the company, or by such corporation or person, of the railway or of any line of railway intended to be operated in connection with or as part of the railway, or of any structure, appliance, equipment, works, renewals or repairs upon or in connection with the railway, the Board shall hear all matters relating to such alleged violation or breach, and shall make such order as to the Board may seem, having regard to all the circumstances of the case, reasonable and expedient, and in such order may, in its discretion, direct the company, or such corporation or person, to do such things as are necessary for the proper fulfilment of such agreement, or to refrain from doing such acts as constitute a violation or a breach thereof.’

2. Section 136 of The Railway Act is amended by adding thereto the following subsection:—

‘7. When securities issued under this section have been deposited or pledged by the company, as security for a loan or for advances made to it, and such loan or advances have been paid off and such deposit or pledge redeemed, such securities shall not be deemed to have been paid off or to have become extinguished, but shall be deemed to be still alive and the company may re-issue them; and upon such re-issue the person to whom the re-issue is made shall have the same rights and priorities as if the securities had not previously been issued.

‘(a) Where a company has deposited any of its securities to secure advances from time to time on current account, such securities shall not be deemed to have been paid off or extinguished by reason only of the account of the company ceasing to be in debit while the securities remain so deposited.

‘(b) The re-issue of the security under this subsection shall not be treated as the issue of a new security for the purpose of any provision limiting the number or amount of the securities to be issued.’

2. Subsection 7 of section 136 of the said Act shall be retrospective in its operation, and shall apply to securities heretofore as well as to securities hereafter issued, deposited or pledged, and to past as well as to future transactions relating to or affecting the same, but nothing in the said subsection shall prejudice,—

(a) the operation of any judgment or order of a court of competent jurisdiction pronounced or made in any legal proceedings now pending, as between the parties to the proceedings in which the judgment was pronounced or the order made, and any appeal from any such judgment or order shall be decided as if the said subsection had not been enacted.

(b) any power to issue securities in the place of any securities paid off, or otherwise satisfied or extinguished, reserved to a company by the securities themselves, or by any mortgage or trust deed securing them.

3. Subsection 2 of section 192 of the said Act is amended by adding thereto the following: ‘Provided, however, that if the company does not actually acquire title to the lands within one year from the date of such deposit, then the date of such acquisition shall be the date with reference to which such compensation or damages shall be ascertained; and provided further, that the foregoing proviso shall not prejudice the operation of any award, or of any order or judgment of any court of competent jurisdiction, heretofore made, or any arbitration now pending and any appeal from any such award, order or judgment shall be decided as if the foregoing proviso had not been enacted.’

4. Section 237 of the said Act, and section 12 of chapter 61 of the statutes of 1908, are repealed, and the following is enacted as section 237 of The Railway Act:—

‘237. Upon any application for leave to construct a railway upon, along or across any highway, or to construct a highway along or across any railway, the applicant shall submit to the Board a plan and profile showing the portion of the railway and highway affected.

1 GEORGE V., A. 1911

'2. The Board, may, by order, grant such application in whole or in part and upon such terms and conditions as to protection, safety and convenience of the public as the Board deems expedient, or may order that the railway be carried over, under or along the highway, or that the highway be carried over, under or along the railway, or that the railway or highway be temporarily or permanently diverted, or that such other work be executed, watchmen or other persons employed, or measures taken as under the circumstances appear to the Board best adapted to remove or diminish the danger or obstruction, in the opinion of the Board, arising or likely to arise in respect of the granting of the application in whole or in part in connection with the crossing applied for, or arising or likely to arise in respect thereof in connection with any existing crossing.

'3. When the application is for the construction of the railway upon, along or across a highway, all the provisions of law at such time applicable to the taking of land by the company, to its valuation and sale and conveyance to the company, and to the compensation therefor, shall apply to the land, exclusive of the highway crossing, required for the proper carrying out of any order made by the Board.

'4. The Board may exercise supervision in the construction of any work ordered by it under this section, or may give directions respecting such supervision.

'5. When the Board orders the railway to be carried over or under the highway, or the highway to be carried over or under the railway, or any diversion temporarily or permanently of the railway or the highway, or any works to be executed under this section, the Board may direct that detailed plans, profiles, drawings and specifications be submitted to the Board.

'6. The Board may make regulations respecting the plans, profiles, drawings and specifications required to be submitted under this section.'

5. Section 238 of The Railway Act is repealed and the following is substituted therefor:—

'238. Where a railway is already constructed upon, along or across any highway, the Board may, upon its own motion, or upon complaint or application, by or on behalf of the Crown, or any municipal or other corporation, or any person aggrieved, order the company to submit to the Board, within a specified time, a plan and profile of such portion of the railway, and may cause inspection of such portion, and may inquire into and determine all matters and things in respect of such portion, and the crossing, if any, and may make such order as to the protection, safety and convenience of the public as it deems expedient, or may order that the railway be carried over, under or along the highway, or that the highway be carried over, under or along the railway, or that the railway or highway be temporarily or permanently diverted, and that such other work be executed, watchmen or other persons employed, or measures taken as under the circumstances appear to the Board best adapted to remove or diminish the danger or obstruction in the opinion of the Board arising or likely to arise in respect of such portion or crossing, if any, or any other crossing directly or indirectly affected.

'2. When the Board of its own motion, or upon complaint or application, makes any order that a railway be carried across or along a highway, or that a railway be diverted, all the provisions of law at such time applicable to the taking of land by the company, to its valuation and sale and conveyance to the company, and to the compensation therefor, shall apply to the land, exclusive of the highway crossing, required for the proper carrying out of any order made by the Board.

'3. Notwithstanding anything in this Act, or in any other Act, the Board may, subject to the provisions of section 238a of this Act, order what portion, if any, of cost is to be borne respectively by the company, municipal or other corporation, or person in respect of any order made by the Board under this or the preceding section, and such order shall be binding on and enforceable against any railway company, municipal or other corporation or person named in such order.'

SESSIONAL PAPER No. 20c

6. The said Act is amended by inserting the following section immediately after section 238 thereof:—

‘238a. In any case where a railway is constructed after the passing of this Act, the company shall, at its own cost and expense (unless and except as otherwise provided by agreement, approved of by the Board, between the company and a municipal or other corporation or person) provide, subject to the order of the Board, all protection, safety and convenience for the public in respect of any crossing of a highway by the railway.’

7. The said Act is further amended by inserting the following section immediately after section 239 thereof:—

‘239a. The sum of two hundred thousand dollars each year for five consecutive years from the first day of April, one thousand nine hundred and nine, shall be appropriated and set apart from the Consolidated Revenue Fund for the purpose of aiding in the providing by actual construction work of protection, safety and convenience for the public in respect of highway crossings of the railway at rail level, in existence on the said first day of April.

‘2. The said sums shall be placed to the credit of a special account to be known as ‘The Railway Grade Crossing Fund,’ and shall be applied by the Board, subject to the limitations hereinafter set out, solely towards the cost (not including that of maintenance and operation), of actual construction work for the purpose specified in subsection 1 hereof.

‘3. The total amount of money to be apportioned, and directed and ordered by the Board to be payable from any such annual appropriation shall not, in the case of any one crossing, exceed twenty per cent of the cost of the actual construction work in providing such protection, safety and convenience, and shall not, in any such case, exceed the sum of five thousand dollars, and no such money shall in any one year be applied to more than three crossings in any one municipality or more than once to any one crossing.

‘4. In case any province contributes towards the said fund, the Board may apportion, direct and order payment out of the amount so contributed by such province, subject to any conditions and restrictions made and imposed by such province in respect of its contribution.

‘5. ‘Crossing,’ for the purpose of this section, means any steam railway crossing of a highway, or highway crossing of a steam railway, at rail level, and every manner of construction of the railway or of the highway by the elevation or the depression of the one above or below the other, or by the diversion of the one or the other, and any other work ordered by the Board to be provided as one work of protection, safety and convenience for the public in respect of one or more railways not exceeding four tracks in all crossing or so crossed.

‘6. ‘Municipality,’ for the purposes of this section, means an incorporated city, town, village, county, township or parish.’

8. Section 241 of the said Act, and section 13 of chapter 61 of the statutes of 1908, are repealed, and the following is enacted as section 241 of The Railway Act:—

‘241. Every structure by which any railway is carried over or under any highway or by which any highway is carried over or under any railway, shall be so constructed and, at all times, be so maintained, as to afford safe and adequate facilities for all traffic passing over, under or through such structure.

‘2. Notwithstanding anything in this Act, or in any other Act, the provisions of sections 236 to 241, both inclusive of this Act shall apply to all corporations, persons, companies, and railways, other than government railways, within the legislative authority of the Parliament of Canada.’

9. Subsection 1 of section 298 of the said Act is amended by striking out the words ‘crops, lands, fences, plantations, or buildings and their contents.’ in the first and second lines thereof, and substituting therefor the words ‘any property,’ and by

1 GEORGE V., A. 1911

inserting after the word 'recoverable,' in the ninth line thereof, the words 'under this section.' Provided further that the company shall, to the extent of the compensation recoverable, be entitled to the benefit of any insurance effected upon the property by the owner thereof. Such insurance shall, if paid before the amount of compensation has been determined, be deducted therefrom; if not so paid, the policy or policies shall be assigned to the company, and the company may maintain an action thereon.

10. The said section 298 is further amended by adding thereto the following subsection:—

'The Board may order, upon such terms and conditions as it deems expedient, that fire guards be established and maintained by the company along the route of its railway and upon any lands, of His Majesty or of any person, lying along such route, and, subject to the terms and conditions of any such order, the company may at all times enter into and upon any such lands for the purpose of establishing and maintaining such fire guards thereon, and freeing, from dead or dry grass, weeds and other unnecessary inflammable matter, the land between such fire guards and the line of railway.'

11. The Railway Act is amended by adding thereto the following section:—

'5a. The provisions of this Act shall apply to:—

(a) any and all railway companies incorporated elsewhere than in Canada and owning, controlling, operating or running trains or rolling stock upon or over any line or lines of railway in Canada, either owned, controlled, leased or operated by such railway company or companies, whether in either case, such ownership, control, or operation is acquired by purchase, lease, agreement, control of stock or by any other means whatsoever;

(b) any and all railway companies operating or running trains from any point in the United States to any point in Canada.'

12. Section 11 of chapter 62 of the statutes of 1908 is repealed and the following is enacted as section 62 of The Railway Act:—

'62. The Board shall, within two months after the thirty-first day of March in each year, make to the Governor in Council through the Minister, an annual report, for the year next preceding the thirty-first day of March, showing briefly,—

'(a) applications to the Board and summaries of the findings thereon under this Act;

'(b) summaries of the findings of the Board in regard to any matter or thing respecting which the Board has acted of its own motion, or upon the request of the Minister;

(c) such other matters as appear to the Board to be of public interest in connection with the persons, companies and railways subject to this Act; and

'(d) such matters as the Governor in Council directs.

'2. The said report shall be forthwith laid before both Houses of Parliament, if then in session, and if not in session then during the first fifteen days of the next ensuing session of parliament.

13. Sections 275 of the Railway Act is amended by adding thereto the following subsections:—

'3. Subject to the provisions of subsection 4 of this section, no train shall pass over any highway crossing at rail level in any thickly peopled portion of any city, town or village at a greater speed than ten miles an hour, unless such crossing is constructed and thereafter maintained and protected in accordance with the orders, regulations and directions specially issued by the Railway Committee of the Privy Council or of the Board in force with respect to such crossing, or unless permission is given by some regulation or order of the Board. The Board may from time to time fix the speed in any case at any rate it deems proper.

SESSIONAL PAPER No. 20c

'4. No train shall pass over any highway crossing at rail level at a greater speed than ten miles an hour, if at such crossing an accident has happened subsequent to the first day of January, nineteen hundred, by a moving train causing bodily injury or death to a person using such crossing, unless and until such crossing is protected to the satisfaction of the Board; and no train shall pass over any highway crossing at rail level at a greater speed than ten miles an hour in respect of which crossing an order of the Board has been made to provide protection for the safety and convenience of the public and which order has not been complied with.

'5. The company shall have until the first day of January, one thousand nine hundred and ten, to comply with the provisions of subsection 3 of this section.'

14. Railway companies shall print in both the English and French languages the time-tables and bills of lading that are to be used along their lines within the limits of the province of Quebec.

PUBLIC SITTINGS.

The following public sittings were held between April 1, 1909, and March 31, 1910.

Province of Ontario—

Ottawa:—April 6, 7, 8 and 9; May 4, 5, 18 and 19; June 8, 9, 15 and 24; July 6, 7 and 26; September 14, 15, 21 and 22; October 5, 6, 7 and 19; November 2, 16 and 17; December 7, 8, 9, 21 and 22; January 4, 5 and 18, (1910); February 1 and 15, (1910); March 1, 15, 16 and 21, (1910).

Toronto:—April 27, 28 and 29; May 31; June 1, 2 and 3; October 12, 13, 14, 15 and 16; November 30; December 1, 2, 3 and 4; January 27 and 28 (1910).

Fort William:—July 15, October 9.

Sudbury:—July 19.

Bracebridge:—July 20.

Province of Quebec—

Montreal:—November 8, February 7, (1910).

Province of Manitoba—

Winnipeg:—October 11 and 12; November 15.

Brandon:—October 13.

Province of Saskatchewan—

Regina:—October 14, November 8 and 9.

Saskatoon:—October 15.

Prince Albert:—October 18.

Province of Alberta—

Edmonton:—October 20.

Calgary:—October 22.

Province of British Columbia—

Vancouver:—October 27.

Victoria:—October 29.

Nelson:—November 1.

The total number of public sittings was seventy-eight (78), at which 533 applications were heard, a list of which, together with the disposition of the same, will be found under Appendix 'B.'

It is impossible within reasonable limits to cover in this report the work of the year, but for general information and reference a few of the more important matters are given.

UNIFORM BILL OF LADING.

The outcome of the circular sent out on April 24, 1908, (p. 11 of 4th Annual Report) was that the consideration of the general terms and conditions of carriage to be embodied in a bill of lading for the handling of traffic by railways was taken up at Ottawa on May 18, 1909.

A draft bill of lading was submitted for approval. This had been settled between the representatives of the various interests and had been agreed upon between the shippers, representatives of the banking interests, and others, and the railway companies. The Bill was not in the form the Board would have preferred to see it, but, as it had, after many conferences, been put into a shape that was acceptable to the persons whose interests were most affected it was decided that the better course was to approve of the form. It is to be regretted that a shorter and plainer contract could not have been framed. The following is the result:—

In the matter of the complaint of the Canadian Manufacturers' Association, supported by the Bankers' Association and by various Boards of Trade, merchants and shippers throughout the Dominion of Canada, respecting the terms and conditions of carriage embodied in the bills of lading of the railway companies subject to the legislative authority of the Parliament of Canada; and in the matter of section 340 of the Railway Act;

Upon hearing the complaint in the presence of counsel for the complainants and the Grand Trunk, Canadian Pacific, and Canadian Northern Railway Companies, and the Michigan Central Railway Company, and what was alleged; and upon consideration of the draft forms of bill of lading agreed to by the parties thereto, and submitted for the approval of the Board:—

1. It is ordered that the two forms of lading for use in Canada, namely that for consignments 'to order,' and that for so termed 'straight' consignments, attached hereto and marked 'A' and 'B,' be, and they are hereby approved.

2. And it is further ordered that the conditions and limitations to be endorsed upon the said bills of lading shall be the following:—

Section 1. The carrier of any of the goods herein described shall be liable for any loss thereof or damage thereto except as hereinafter provided.

Section 2. In the case of shipments from one point in Canada to another point in Canada, or where goods are shipped under a joint tariff, the carrier issuing this bill of lading, in addition to its other liability hereunder, shall be liable for any loss, damage or injury to such goods from which the other carrier is not by the terms of this bill of lading relieved, caused by or resulting from the act, neglect, or default of any other carrier to which such goods may be delivered in Canada, or under such joint tariff, or over whose line or lines such goods may pass in Canada, or under such joint tariff, the onus of proving that such loss was not so caused or did not so result being upon the carrier issuing this bill of lading. The carrier issuing this bill of lading shall be entitled to recover from the other carrier on whose line or lines the loss, damage, or injury to the said goods shall have been sustained the amount of such loss, damage, or injury as it may be required to pay hereunder, as may be evidenced by any receipt, judgment or transcript thereof. Nothing in this section shall deprive the holder of this bill of lading or party entitled to the goods of any remedy or right of action which he may have against the carrier issuing this bill of lading or any other carrier.

Section 3. The carrier shall not be liable for loss, damage, or delay to any goods herein described, caused by the act of God, the King's or public enemies, riots, strikes, defect or inherent vice in the goods, or the act or default of the shipper or owner; for differences in weights of grain, seed, or other commodities

SESSIONAL PAPER No. 20c

caused by natural shrinkage or discrepancies in elevator weights when the elevators are not operated by the carrier, unless the weights are evidenced by government certificate; the authority of law or by quarantine. For loss, damage, or delay, except where carriage is to be performed by the carrier or its agents caused by fire occurring after forty-eight hours (exclusive of legal holidays), or in the case of bonded goods seventy-two hours (exclusive of legal holidays), after written notice of the arrival of said goods at destination or at port of export (if intended for export and not covered by a through bill of lading) has been sent or given, the carrier's liability shall be that of warehouseman only. Except in case of negligence of the carrier (and the burden of proving freedom from such negligence shall be on the carrier), the carrier shall not be liable for loss, damage, or delay occurring while the goods are stopped and held in transit upon the request of the party entitled to make such request. When in accordance with general custom, on account of the nature of the goods, or at the request of the shipper, the goods are transported in open cars, the carrier (except in case of loss or damage by fire, in which case the liability shall be the same as though the goods had been carried in closed cars) shall be liable only for negligence, and the burden of proving freedom from such negligence shall be on the carrier.

Section 4. No carrier is bound to transport said goods by any particular train or vessel, or in time for any particular market or otherwise than as required by law, unless by specific agreement endorsed hereon. Every carrier, in case of physical necessity, shall have the right to forward said goods by any railway or route between the point of shipment and the point of destination; but if such diversion be from a rail to a water route the liability of the carrier shall be the same as though the entire carriage were by rail.

The amount of any loss or damage for which any carrier is liable shall be computed on the basis of the value of the goods at the place and time of shipment under this bill of lading (including the freight and other charges if paid, and the duty if paid or payable and not refunded), unless a lower value has been represented in writing by the shipper or has been agreed upon or is determined by the classification or tariff upon which the rate is based, in any of which events such lower value shall be the amount to govern such computation, whether or not such loss or damage occurs from negligence.

When under the terms of the classification or special reduced tariffs, the goods are carried at owner's risk, such conditions are intended to cover only such risks as are necessarily incidental to transportation and shall not relieve the carrier from liability for any loss, damage or delay which may result from any negligence or omission of the carrier, its agents or employees, and the burden of proving freedom from such negligence or omission shall be on the carrier.

Notice of loss, damage or delay, must be made in writing to the carrier at the point of delivery, or to the carrier at the point of origin, within four months after delivery of the goods, or in case of failure to make delivery, then within four months after a reasonable time for delivery has elapsed. Unless notice is so given the carrier shall not be liable.

Any carrier or party liable on account of loss or damage to any of said goods, on reimbursing to the insured the premiums paid in respect thereof, shall have the full benefit of any insurance that may have been effected upon or on account of said goods, so far as this shall not avoid the policies or contracts of insurance.

Section 5. Grain in bulk consigned to a point where the carrier has an elevator or warehouse, or where there is a public or licensed elevator or warehouse, may be there delivered and placed with other grain of the same kind and grade without respect to ownership; provided that this shall not apply to a point of final delivery if it is otherwise expressly noted hereon, unless the grain is not

1 GEORGE V., A. 1911

promptly unloaded after written notice of arrival has been sent or given to the person named herein. Grain so delivered shall be subject to a lien for elevator charges in addition to all other charges hereunder.

Section 6. Goods not removed by the party entitled to receive them within forty-eight hours (exclusive of legal holidays), or in the case of bonded goods, within seventy-two hours (exclusive of legal holidays), after written notice has been sent or given, may be kept in car, station, or place of delivery, or warehouse of the carrier, subject to a reasonable charge for storage and to the carrier's responsibility as warehouseman only, or may at the option of the carrier (after written notice of the carrier's intention to do so has been sent or given), be removed to and stored in a public or licensed warehouse at the cost of the owner and there held at the risk of the owner and without liability on the part of the carrier, and subject to a lien for all freight and other lawful charges, including a reasonable charge for storage.

Goods in carloads shipped from a private siding, or a station, wharf, or landing where there is no duly authorized agent, shall be at the risk of the owner until the car is lifted or bill of lading is issued by the carrier, and thereafter shall be at the risk of the carrier. Goods in carloads destined to a private siding, or station, wharf, or landing where there is no duly authorized agent, shall be at the risk of the carrier until placed on the delivery siding.

All goods shall be subject to necessary cooperage and baling at owner's cost.

Section 7. No carrier shall be bound to carry any documents, specie, or any articles of extraordinary value not specifically rated in the published classification or tariffs unless a special agreement to do so (the duty of obtaining such special agreement to be on the carrier when nature of such goods is disclosed herein) and a stipulated value of the articles are endorsed hereon. If such goods are carried without a special agreement and the nature of the goods is not disclosed hereon the carrier shall not be liable for any loss or damage thereto.

Section 8. The owner or consignee shall pay the freight and all other lawful charges accruing on said goods, and, if required, shall pay the same before delivery. If upon inspection it is ascertained that the goods shipped are not those described in this bill of lading, the freight charges must be paid upon the goods actually shipped, with any additional penalties lawfully payable thereon.

Section 9. Except in case of diversion from rail to water route, which is provided for in section 4 hereof, and except as provided hereafter, if all or any part of said goods is carried by water over any part of said route, such water carriage shall be performed subject to the liabilities, limitations, and exemptions provided by statute and to the conditions contained in this bill of lading not inconsistent with such statute or this section and subject also to the conditions that no carrier or party in possession shall be liable for any loss or damage resulting from the perils of the lake, sea, or other waters; or from explosion, bursting of boilers, or breakage of shafts, not arising from the negligence of the carrier, or from any latent defect in hull, machinery, or appurtenances or from collision, stranding, or other accidents of navigation or from prolongation of the voyage. And any vessel carrying any or all of the goods herein described, shall be at liberty to call at intermediate ports, to tow and be towed, and assist vessels in distress, and to deviate for the purpose of saving life or goods.

The term 'water carriage' in this section shall not be construed as including lighterage or car ferriage across rivers, or in lake or other harbours, and the liability for such lighterage or car ferriage shall be governed by the other sections hereof.

If the goods are being carried under a tariff which provides that any carrier or carriers party thereto shall be liable for loss from perils of the sea, then as to such carrier or carriers the provisions of this section shall be modified in

SESSIONAL PAPER No. 20c

accordance with the provisions of the tariff, which shall be treated as incorporated into the conditions of this bill of lading.

Section 10. Every party, whether principal or agent, shipping explosives or dangerous goods, without previous full written disclosure to the carrier or its agent of their nature, shall be liable for all loss or damage caused thereby, and such goods may be warehoused at owner's risk and expense, or destroyed without compensation.

Section 11. Any alteration, addition or erasure in this bill of lading shall be signed or initialled in the margin by an agent of the carrier issuing the same, and if not so signed or initialled shall be without effect, and this bill of lading shall be enforceable according to its original tenor.

3. And it is further ordered that the size of the said bills of lading shall be eight and one-half ($8\frac{1}{2}$) inches wide, by eleven (11) inches long.

4. And it is further ordered that on and after the 1st day of October, 1909, the forms herein approved shall be the only bills of lading to be used by all railway companies subject to the legislative authority of the Parliament of Canada.

(Signed.) J. P. MABEE,
Chief Commissioner,
Board of Railway Commissioners for Canada.

ORDER BILL OF LADING ORIGINAL.

Order No.....
Shipper's No.....
Agent's No.....

Received, subject to the classifications and tariffs in effect of the date of issue of this (Original Bill of Lading, at 19 from the goods described below, in apparent good order except as noted (contents and conditions of contents of packages unknown) marked, consigned and destined as indicated below, which said Company agrees to carry to its usual place of delivery at said destination, if on its road, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed, as to each carrier of all or any of said goods over all or any portion of said route to destination, and as to each party at any time interested in all or any of said goods, that every service to be performed hereunder shall be subject to all the conditions, whether printed or written, herein contained (including conditions on back hereof) and which are agreed to by the shipper and accepted for himself and his assigns.

The surrender of this Original Order Bill of Lading properly indorsed shall be required before the delivery of the goods. Inspection of goods covered by this Bill of Lading will not be permitted unless provided by law or unless permission is indorsed on this Original Bill of Lading or given in writing by the shipper.

The Rate of Freight from to is in Cents per 100 lbs.

If . . .	Time's 1st If . . . (Class)	If . . . Class	If . . . Class	If . . . Class ¹	If . . . Class	If . . . Class	If Special per.
If . . .	Time's 1st If . . . (Class)	If . . . Class	If . . . Class	If . . . Class ¹	If . . . Class	If . . . Class	If Special per.

(Mail address—Not for purposes of Delivery).

Consigned to Order of	Province or State of	County of
Destination	Province or State of	County of
Notify	Province or State of	County of
At	Province or State of	County of
Route	Car initial	Car No.

No. Packages.	Description of Articles and Special Marks.	Weight (subject to correction).	Class or Rate.	Check Column.
				If charges are to be prepaid, write or stamp here, "To be Prepaid."
				Received \$..... to apply in prepayment of the charges on the property described hereon.
				Per..... Agent or Cashier. (The signature here acknowledges only the amount prepaid).
				Charges advanced \$.....

Shipper.

	Agent.
Per.....	

Per
(This Bill of Lading is to be signed by the shipper and agent of the carrier issuing same.)

13

Order No.
 Shipper's No.
 Agent's No.

NOT NEGOTIABLE.

RECEIVED, subject to the classifications and tariffs in effect on the date of issue of this Original Bill of Lading, at..... 19.....
from..... the goods described below, in apparent good order, except as noted
(contents and condition of contents of packages unknown), marked, consigned and destined as indicated below, which said Company agrees to carry to its usual place
of delivery at said destination, if on its road, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed, as to each carrier of all or
any of said goods over all or any portion of said route to destination, and as to each party at any time interested in all or any of said goods, that every service to be
performed hereunder shall be subject to all conditions, whether printed or written, herein contained (including conditions on back hereof) and which are agreed to by
the shipper and accepted for himself and his assigns.

The Rate of Freight from to is in Cents per 100 lbs.

[illegible]

Consigned to
 Destination
 Route
 Province or State of
 County of
 Car Initial
 Car No.

(Mail address—not for purpose of delivery.)

No. Packages.	Description of Articles and Special Marks.	Weight (subject to correction.)	Class or Rate.	Check Column.
				If charges are to be prepaid write or stamp here, "To be prepaid".
				Received \$.....to apply in prepayment on the property described hereon.
				Per.....Agent or Cashier.
				(The signature here acknowledges only the amount prepaid.)
				Charges Advanced \$.....

Per Shipper, Agent,
 Per.
 (This Bill of Lading is to be signed by the shipper and agent of the carrier issuing same.)

(This Bill of Lading is to be signed by the shipper and agent of the carrier issuing same.)

1 GEORGE V., A. 1911

EQUIPMENT OF PASSENGER COACHES WITH FIRE EXTINGUISHERS.

Representations having been made by the railway companies that delays had arisen in connection with the compliance with the provisions of its order of July 3, 1907. Order No. 3238, after hearing the railway companies through their representatives, the following order was issued on May 4, 1909.

Order No. 6998.

Whereas, by order of the Board No. 3238, dated the 3rd day of July, 1907, amended by order No. 4685, dated the 5th day of May, 1908, railway companies subject to the legislative authority of the Parliament of Canada, operating a railway by steam power, were directed to equip their passenger coaches with fire extinguishers within the time provided in the said order of July 3, 1907, namely:—

(a) In cars to be constructed in the future for use on their said railways, before they are so used;

(b) In cars under construction or in shops undergoing repairs, within six months from the date of the order;

(c) In cars at present in use on their respective railways, within eighteen months from the date of the order;

And whereas, it has been represented to the Board that delays have arisen in connection with compliance with the provisions of the said order;

Upon hearing the matter in the presence of counsel for the Canadian Pacific Railway Company, the Canadian Northern Railway Company, the Great Northern Railway Company, and the Grand Trunk Railway Company of Canada, and what was alleged by counsel aforesaid; and upon their request.

It is ordered that the time provided in the said order No. 3238, dated July 3, 1907, within which railway companies are required to equip their passenger coaches with fire extinguishers as aforesaid, be, and it is hereby; extended as follows:—

(b) Cars under construction or in shops undergoing repairs, within six months from May 4, 1908;

(c) Cars at present in use on their respective railways, within eighteen months from the 3rd day of November, 1908.

And in all other respects the said orders are hereby confirmed.

(Signed) J. P. MABEE,
Chief Commissioner,
Board of Railway Commissioners for Canada.

UNIFORM CODE FOR CANADIAN RAILWAYS—TRAIN RULES.

As a result of the numerous meetings and much discussion, the Board finally approved of a Uniform Code of Train Rules for Canadian railways. In connection with this matter, the Board issued the following order approving of the Uniform Code:

MONDAY, the 12th day of July, A.D. 1909.

Upon the report of the operating officials of the Board; and upon hearing the representatives of the railway companies and of the employees; and in pursuance of the powers conferred upon it by sections 30, 268 and 269 of the Railway Act, and of all other powers possessed by the Board in that behalf:—

It is ordered that the train rules attached hereto marked 'A' and designated as the proposed Uniform Code for Canadian railways, be, and they are hereby approved.

(Signed) J. P. MABEE,
Chief Commissioner,
Board of Railway Commissioners for Canada.

SESSIONAL PAPER No. 20c

RAILWAY FENCING AND CATTLE GUARDS.

As intimated in the last annual report of the Board in connection with circular No. 34 herein, a draft of proposed order was submitted to the railway companies for consideration and the settlement of the terms of the order were spoken to at a sitting of the Board held in Ottawa on May 4, 1909, when the separate clauses of the draft order were discussed and argument submitted to the Board in connection therewith. Subsequently, the Board issued the following order dealing with this matter:

In the matter of complaints against railway companies for non-compliance with the provisions of the statute regarding fences and cattle guards and public highway crossings:—

Upon hearing complaints from many individuals, public bodies, and municipalities, that railway companies are not complying with the provisions of section 254 of the Railway Act, and that much hardship is caused by the exemption provided for in subsection 4 of the said section; and upon request being made that the Board intervene, as provided for by the said subsection; and upon hearing what was said on behalf of the railway companies—

It is ordered that all railway companies subject to the jurisdiction of this Board, shall, as to all railway lines completed, owned, or operated by them, where the lands on either side of the railway are not inclosed, settled or improved:

1. On or before January 1, 1911, erect and maintain, on each side of the right of way (1) fences of a minimum height of four feet six inches, with swing gates, at farm crossings, with minimum height aforesaid, with proper hinges or fastenings; (2) cattle-guards on each side of the highway at every highway crossing, at rail level: Provided that sliding or hurdle gates, constructed before the first day of February, 1904, may be maintained.

2. The railway fences at every highway crossing shall be turned into the respective cattle guards on each side of the highway.

3. All fences, gates, and cattle guards shall be suitable and sufficient to prevent cattle and other animals from getting on the railway.

4. As to lines not yet completed or opened for traffic, or in course of construction, all such companies shall—

(1) Erect fences, gates, and *cattle-guards* as aforesaid as the rails are laid.

(2) If not yet opened for traffic, then such fences, gates and cattle guards as aforesaid shall be erected and maintained before such railway shall be opened for traffic.

(3) Where the railway is being constructed through inclosed lands, it shall be the duty of the railway company to at once construct such fences or take such other steps that will prevent cattle and other animals escaping from such inclosed lands.

5. As to all railway lines completed, owned, or operated, where the lands on either side of the railway are inclosed, settled or improved, such company shall erect and maintain such fences, gates and cattle guards, and in all respects comply with section 254 of the Railway Act, on or before the 15th day of October, 1909.

6. Where it shall be made to appear to the Board that no necessity exists for the fencing or other works hereinbefore directed, the company or companies may apply to the Board for exemption from fencing, and other works, and such exemptions may be made as the Board deems proper.

7. All railways now in operation shall, within the time aforesaid, construct and maintain suitable and proper highway crossings, except such as may have already been covered by previous orders apportioning cost or providing for liability for maintenance, at all such as are being used for travel, and additional ones at once upon such highways being from time to time opened and used for travel.

1 GEORGE V., A. 1911

8. All railways not yet opened for traffic, or hereafter constructed, shall, before the same are opened for traffic, construct and maintain suitable and proper highway crossings at all such as are being used for travel, and additional ones at once upon such highways being from time to time opened and used for travel.

9. All such crossings shall comply with the standard conditions of the Board, in so far as the same may be applicable, which are as follows:—

1. That, unless otherwise ordered by the Board, *the width of approaches to rural railway crossings over highways be twenty feet* road surface on concession and main roads and sixteen feet on side and bush roads.

2. That a strong, substantial fence or railing, four feet six inches high, with a good post-cap (four inches by four inches), a middle piece of timber (1½ inches by 6 inches), and a ten-inch board firmly nailed to the bottom of the posts to prevent snow from blowing off the elevated roadway, be constructed on each side of every approach to a rural railway crossing where the height is six feet or more above the level of the adjacent ground, leaving always a clear road-surface twenty feet wide.

3. That the width of approaches to rural railway crossings made in cuttings be not less than twenty feet clear from bank to bank.

4. That, unless otherwise ordered by the Board, the planking or paving blocks, or broken stone topped with crushed rock screenings, on rural railway crossings over highways (between the rails and for a width of at least eight inches on the outer side thereof) be *twenty feet* long on concession and main roads, and *sixteen feet* on side and bush roads.

10. Leave may be reserved to each of the railway companies affected by this order to move to extend the time for compliance therewith.

(Signed) J. P. MABEE,
Chief Commissioner,
Board of Railway Commissioners for Canada.

The Canadian Northern Railway Company subsequently made an application to a judge of the Supreme Court for leave to appeal from the following portion of the order:—

‘That all railway companies subject to the jurisdiction of this Board, shall, as to all railway lines completed, owned, or operated by them, where the lands on either side of the railway are not inclosed, settled, or improved, on or before January 1, 1911, erect and maintain, on each side of the right of way fences of a minimum height of four feet six inches with swing gates, at farm crossings, with minimum height afore-said, with proper hinges or fastenings.’

Leave was granted and the appeal was heard at the September sittings and judgment reserved. The appeal succeeded in part, the following being the reasons given:—

PRESENT:—Sir Charles Fitzpatrick, C.J., and Girouard, Davies, Idington, Duff and Anglin, J.J.

Appeal from an Order of the Board of Railway Commissioners for Canada on a question as to the jurisdiction of the Board.

The Canadian Northern Railway Company, one of the companies subject to the jurisdiction of the Board of Railway Commissioners for Canada, appealed from the order whereby, among other things, it is required that all railway companies subject to the jurisdiction of the Board should, as to all railway lines completed, owned or operated by them where the lands on either side of the railway are not inclosed, settled or improved, on or before January 1, 1911, erect and maintain on each side of the right-of-way fences with swing gates at farm crossings, and that, as to lines

SESSIONAL PAPER No. 20c

not yet completed or opened for traffic or in course of construction where the railway is being constructed through inclosed lands it should be the duty of the railway company at once to construct such fences or take such other steps as would prevent cattle and other animals escaping from such inclosed lands. The question to be decided was, whether or not under section 254 of the 'Railway Act' or otherwise the Board of Railway Commissioners for Canada had jurisdiction to make those provisions of the order.

In giving reasons for the making of the order the Hon. J. P. Mabee, Chief Commissioner, said:—

'At every sitting of the Board, from Winnipeg to Victoria, complaints were made against the railway companies in connection with the fencing, or rather the defective and non-fencing of their right-of-way, and that the law regarding cattle-guards was not complied with. Claims innumerable for stock killed and refusal to make compensation were disclosed. Many cases appeared where stock had been killed upon the track and farmers were afraid to ask for compensation for fear of being involved in endless litigation.

'It would seem, perhaps, that upon the whole the absence of fences along the right-of-way is a more fruitful source of loss to the rancher and farmer than defective cattle-guards, or other absence.

'Cases were given where those in charge of the construction of railways entered upon improved and inclosed land, threw down the fences, made no attempt to inclose the right-of-way, allowing stock to get out upon the highways, thus injuring crops, and in some instances these cattle were killed upon distant railway tracks. Whether these wrong-doers were independent contractors or servants or officers of the railways did not appear, but so far as this Board has power, it is determined that such high-handed and unreasonable conduct shall cease.

'The Railway Act is clear upon the questions of fencing and cattle-guards, and the time has arrived when something must be done to compel the observance of its provisions.

'Section 254 provides as follows:—

"The company shall erect and maintain upon the railway:—

"(a) Fences of a minimum height of four feet six inches on each side of the railway;

"(b) Swing gates in such fences at farm-crossings of the minimum height aforesaid, with proper hinges and fastenings, provided that sliding or hurdle gates constructed before February 1, 1904, may be maintained; and

"(c) Cattle-guards on each side of the highway at every highway crossing at rail level with the highway.

"2. The railway fences, at every such highway crossing shall be turned into the respective cattle-guards on each side of the highway.

"3. Such fences, gates, and cattle-guards shall be suitable and sufficient to prevent cattle and other animals from getting on the railways.

"4. Wherever the railway passes through any locality in which the lands on either side of the railway are not inclosed and either settled or improved, the company shall not be required to erect and maintain such fences, gates, and cattle-guards, unless the Board otherwise orders or directs."

'There has been no order of the Board respecting fencing through uninclosed or unimproved lands, and the practice of the companies, so far as I can learn, has been to leave their right-of-way entirely unfenced, until the adjacent owner or owners had erected side fences, when such owner or owners would be expected to call upon the company to erect its fences. Cases, however, were presented where the side-fences had been long since erected, but yet the railway fences had not been erected.

'We have been furnished with no information by the railway companies of the amounts paid by them for cattle killed upon their lines or of the number of claims

1 GEORGE V., A. 1911

they have disputed, but from the large number of cases that were brought to the attention of the Board, where compensation has not been made, the better opinion perhaps is that the disputed claims vastly exceed those in which settlements have been made, if not, the companies have been paying out very large sums that would have been much better spent in protecting their rights-of-way.

‘Now the statute defines clearly the kind of fence and cattle-guard that must be provided; the fence must be at least four feet, six inches high, and it and the cattle-guards must be “suitable and sufficient to prevent ‘cattle and other animals’ from getting on the railway.’

‘It is just as incumbent upon the companies to fence against hogs as it is against horses, yet it is not pretended that any attempt has been made to do so, and instances were given where farmers had so many hogs killed that they were compelled to abandon any attempt to raise them.

‘It seems to be the practice in Manitoba, Saskatchewan, some parts of Alberta and British Columbia to remove the cattle-guards entirely in the winter time. This is done, it was said, to facilitate the operation of the snow-ploughs. It was not shown by any railway expert that this practice is necessary, but it was shown by many Saskatchewan farmers that it was more important to them to have the cattle-guards in place during winter than any other season, as during the other seasons their cattle were mostly pasturing in the hills in charge of herders. At any rate these cattle-guards have been removed during the winter months without authority and unless a great deal more can be shown than has yet appeared, the practice must cease. Furthermore, the railway companies must establish and maintain cattle-guards that will prevent cattle and other animals from getting upon the railways. This is the requirement of the law, and I know of no reason why it should not be complied with.

‘The provisions of clause 4 have been abused, and this statutory exemption from fencing has been used by the companies to free themselves from making compensation in innumerable cases of meritorious claims. This condition of affairs cannot be permitted to continue; it works great hardship upon the public, and is of little or no benefit to the railway companies. The conditions in the west have greatly changed since this exemption was granted to the companies, and as they are compelled at some stage of the undertaking to erect fences, I am clearly of the opinion that no hardship will be imposed if that stage is made the initial one.

‘I am aware that in various parts of the country no necessity now exists, and possibly never will, for the erection of fences. The formal order may contain a provision that railway companies, the lines of which have already been constructed, may apply to exempt certain sections of the road from the operation of the order, when, if conditions are shown that such course will entail no hardship upon the public, the Board may so declare. The like course may be taken where railways are in course of construction, and as to such latter, when application is made to open the road for traffic, the fences, cattle-guards, highway and farm-crossings and gates shall all form part of the work necessary to be completed according to the statute and the Board’s regulations, before permission is given to operate the road. I am convinced that this course will, in the end, be less expensive for the railway companies, as the erection of fences, gates, &c., can all be carried on at the time of construction at less cost than later on, to say nothing of saving liability for damage claims for stock killed and law costs in defending even if successful.

‘Many complaints were made that in the construction of the railway lines the highway crossings were left in an impassable state, causing endless inconvenience and trouble to the public. I confess I am at a loss to understand such disregard of the rights of others, and such selfish and inconsiderate conduct upon the part of those constructing the railways, or responsible for their construction. If these works are let out to contractors, the railway companies may as well at once understand that they must make some provision in their contracts that will compel their contractors to treat the

SESSIONAL PAPER No. 20c

public with ordinary decency. This Board has no control over the contractors and can deal only with the railway companies. These highway crossings can be constructed at less expense when the grading is being done than later on, after the road is completed; and with respect to roads not yet completed, they will not be opened for traffic until every highway crossing opened for travel is put into the condition called for by the Board's regulations. As to these railways now in operation, all highway crossings, opened for travel, must be put into the condition called for by the regulations within one year from this date.

'A draft order embodying the foregoing may be sent to all the companies, and its settlement spoken to by them at the May meeting of the Board at Ottawa.'

It did not appear that there had been any special application made to the Board in respect to any designated locality, nor that the necessity of fencing any defined portion of any particular line of railway had been inquired into and determined by the Board; and the order, by its terms, applied to the whole of the Dominion of Canada and affected all railways subject to the Railway Act, R.S.C., 1906, ch. 37.

CHRYSLER, K.C., for the appellants.—The Board has no power to make a general order such as this, but must deal with each locality as an application is made in respect thereto. Section 25, Cyc. 1534, as to definition of locality. See also as to liability to fence generally, *Cortese v. Canadian Pacific Railway Company* (1); *Biddeson v. Canadian Northern Railway Company* (2); *Phair v. Canadian Northern Railway Company* (3); *Hunt v. Grand Trunk Pacific Railway Company* (4); *Canadian Pacific Railway Company v. Carruthers* (5).

FORD, K.C., Deputy Attorney-General of Saskatchewan, supported the order.

The CHIEF JUSTICE.—The provisions of the order complained of as made in excess of the jurisdiction of the Board of Railway Commissioners are fully set out in the opinion of Mr. Justice Anglin. The question to be decided on this appeal is whether, under section 254 of the Railway Act, or otherwise, the Board has jurisdiction to make such provisions. That section (section 254, par. 1) imposes upon all railway companies under the jurisdiction of the Parliament of Canada the general obligation to erect and maintain fences, gates and cattle-guards to be constructed in accordance with certain requirements set out in detail in the section.

An exception to the general obligation contained in paragraph 1 is made in subsection 4 of the same section 254, with respect to

and locality in which the lands on either side of the railway are not inclosed and either settled or improved.

In such a locality the company is not subject to the

(1) 7 Can. Ry. Cas. 345.

(2) 7 Can. Ry. Cas. 17.

(3) 5 Can. Ry. Cas. 334.

(4) 18 Man. R. 603.

(5) 39 Can. S.C.R., 251.

general obligation to erect and maintain fences, gates and cattle-guards unless the Board otherwise orders and directs. In the context 'any locality' does not include all Canada. The word 'locality' qualified by 'any' conveys the idea of a portion of Canadian territory confined within a limited area. In making the order the Chief Commissioner assumes that power exists in the Railway Board to make a general order applicable to all Canada, irrespective of localities, and he says:—

The provisions of clause 4 have been abused and this statutory exemption from fencing has been used by the companies to free themselves from making compensation in innumerable cases of meritorious claims. This condition of affairs cannot be permitted to continue; it works great hardship upon the public and is of little or no benefit to the railway companies. The conditions in the west have greatly changed since this exemption was granted to the companies, and, as

1 GEORGE V., A. 1911

they are compelled at some stage of the undertaking to erect fences, I am clearly of the opinion that no hardship will be imposed if that stage is made the initial one. I am aware that in various parts of the country no necessity now exists, and possibly never will, for the erection of fences. The formal order may contain a provision that railway companies, the lines of which have already been constructed, may apply to exempt certain sections of the road from the operation of the order, when, if conditions are shown that such course will entail no hardship upon the public, the Board may so declare. The like course may be taken where railways are in course of construction and as to such latter, when application is made to open the road for traffic, the fences and cattle-guards, highway and farm-crossings and gates shall all form part of the work necessary to be complete according to the statute and the Board's regulations, before permission is given to operate the road. I am convinced that this course will, in the end, be less expensive for the railway companies, as the erection of fences, gates, &c., can all be carried on at the time of construction at less cost than later on, to say nothing of saving liability for damage claims for stock killed and law costs in defending even if successful.

I am of the opinion that the order to fence in any excepted locality must be made in the exercise of a judicial discretion on proper cause shown, that is to say, the Commission must judicially find as a fact that the company with respect to a particular locality is not entitled to the benefit of the statutory exemption. The intention of Parliament clearly was to except from the general obligation to fence any locality wherein the lands through which the railway passes were 'not inclosed and either settled or improved,' on the presumption that, in places where such conditions existed, fences, gates and cattle-guards were unnecessary. The Chief Commissioner gives as his reason for making that order that

as they (the railway companies) are compelled at some stage of the undertaking to erect fences,

presumably because, at that stage, the adjoining lands will be settled or improved, in the meantime, the companies are not entitled to the benefit of the exception created in their favour by Parliament and this notwithstanding that the Commissioner is aware

that in various parts of the country no necessity now exists and possibly never will exist for the erection of fences.

To order the erection of fences at a time when the Commissioners admit they are not required and in places where the necessity for them will, in the opinion of the Commissioners, never arise, is, in my opinion, *ultra vires* of the Commission. The Act clearly indicates that each individual case is to be considered before an order is made with respect thereto. To make a general rule obliging the companies to fence and imposing upon them the onus of procuring and giving evidence as to the absence of necessity for fencing in order to get the benefit of the exception created in their favour is to completely alter the policy of the Act.

As to lines not yet complete or open for traffic or in course of construction, I am of opinion that the Commissioners have jurisdiction to oblige all railways, where they pass through inclosed lands, to fence or take such other steps as are necessary to prevent cattle or other animals from escaping from the inclosed lands through which the railway passes, whether the railways are being operated by trains or are merely in course of construction.

I agree, as to this portion of the order, with the conclusion reached by Sir Louis Davies.

GIROUARD, J.—I think the appeal should be dismissed in every respect, except with regard to fences and cattle-guards on lands on either side of the railway that are not inclosed or either settled or improved, unless in 'any locality' the Board has ordered otherwise. I am not called upon to express an opinion as to the exact meaning of the

SESSIONAL PAPER No. 20c

words 'any locality'; whether it refers to a province, a district or any place in any province; it is sufficient for me to say that these words do not mean the whole Dominion. The order of the Board seems to be reasonable and even wise, but it is too general and should be given by the Parliament of Canada, who alone can change the policy expressed in article 254, par. 4, of the Railway Act. Otherwise I agree with the Board.

The appeal is therefore allowed in part and dismissed in part, without costs.

DAVIES, J.—This is an appeal challenging the jurisdiction of the Board of Railway Commissioners to make the general order No. 7473, providing substantially that all completed railway lines owned or operated by companies should on or before January 1, 1911, where the lands on either side of the railway were not inclosed, settled or improved, have erected and maintained

on each side of the right-of-way fences of a minimum height of 4 feet 6 inches, with swing gates at farm crossings, &c.,

and also providing with respect to lines of railway not completed or opened for traffic that where such lines are being constructed through inclosed lands it should be the duty of the company

to at once construct such fences or take such other steps that will prevent cattle and other animals escaping from such inclosed lands.

After much consideration I have reached the conclusion that such part of the order as requires all railway companies subject to the Board's jurisdiction and owning or operating completed lines running through lands 'which were not inclosed, settled or improved on either side of the railway,' to 'erect and maintain on each side of the right-of-way fences of a minimum height of 4 feet 6 inches,' is in excess of the jurisdiction of the Board.

The determination of the question turns upon the proper construction of the two hundred and fifty-fourth section of the Railway Act of 1906. That section after imposing a duty upon the company to provide for the erection and maintenance generally of fences, swing gates at farm crossings, and cattle-guards at highway level crossings, contained a fourth subsection, reading as follows:—

Whenever the railway passes through any locality in which the lands on either side of the railway are not inclosed and either settled or improved, the company shall not be required to erect and maintain such fences, gates and cattle-guards unless the Board otherwise orders or directs.

The language of the section is unfortunately somewhat obscure and ambiguous.

I construe it to have reference to the passage of a railway through a locality in which lands on either side of the railway are not inclosed and not either settled or improved. In such cases, that is in what is popularly known as wilderness or wild or waste or forest or prairie lands uninclosed and not settled or not improved, the duty on the companies' part to fence shall not exist unless and until the Board otherwise orders or directs. It seems to me from the insertion of the words 'any locality' which govern and control this subsection, that the intention of Parliament was not to vest a general power in the Board of imposing the duty of fencing these special lands upon the companies irrespective of previous investigation or inquiry with regard to them and the necessity of fencing arising from the existing special conditions such investigation might disclose, but a special power exercisable with regard to any locality the Board might choose to investigate. Parliament no doubt wisely did not define what was intended as a locality. That too was left to the Board. Whether it was ten miles or one hundred miles or more in length was left open. So I should hold that the Board would have jurisdiction to investigate with respect to any area of such lands as the section embraced as to the conditions existing there, and after such investigation make such order as to fences, gates and cattle-guards as in its judgment was necessary and desirable.

1 GEORGE V., A. 1911

But it must appear either expressly from the face of the order or from some record of the proceedings of the Board or be otherwise fairly to be inferred from them that the Board was exercising its powers with respect to some defined locality and was not merely making a general order covering all the localities throughout Canada through which all the railways subject to its jurisdiction ran. Such an order would be practically legislation in itself and not an exercise of the definite and limited powers given by Parliament. In my opinion Parliament did not intend to delegate to the Board a power to legislate, but a very broad general and, no doubt, desirable power to impose upon the railway companies duties with respect to fencing in certain designated areas of land called 'localities' from which duties the statute, until the Board otherwise ordered, exempted them. Parliament obviously intended by limiting the exercising of this power to 'localities' that it should not be exercised unless and until the Board having examined or inquired into the conditions had determined that these were such as called for the exercise of their powers so far as the 'locality' inquired into was concerned. It is not pretended that any such necessarily precedent investigation and inquiry as would justify a general power such as the one now being considered had been made. Indeed, the contrary appears to be the fact.

With respect to that part of the order relating to lines not completed or open for traffic or in course of construction where the railway is being constructed through inclosed lands which directs the railway company to

at once construct such fences or take such other steps that (sic) will prevent cattle and other animals escaping from such inclosed lands,

I am of the opinion that the Board had jurisdiction to make the order directing immediate construction of fences or alternative steps deemed by them necessary and sufficient. The criticism upon the language of this particular order made by Anglin J. (with whose conclusion I agree) and who suggests a variation in its language is, I think, sound. If the language of the Act is adhered to and its words at the end of subsection 3 of section 254, namely, 'from getting on the railway' literally followed and substituted for those inserted in the order, namely, 'escaping from such inclosed lands,' I think many difficulties with respect to its enforcement in the future will be avoided.

IDINGTON, J.—I fear this order exceeds the jurisdiction of the Board of Railway Commissioners.

The Railway Act, by section 254, prescribes the duty of the railway companies in regard to fencing.

In no other part of the Act is the subject dealt with except section 242, subsection 2, and that part relative to cattle-guards to which I will presently refer.

Subsection 4 is as follows:—

Whenever the railway passes through any locality in which the lands on either side of the railway are not inclosed and either settled or improved, the company shall not be required to erect and maintain such fences, gates and cattle-guards unless the Board otherwise orders or directs.

It is by this excepting part of the clause, and by that alone, put within the power of the Board to deal with this matter of fencing through

any locality in which the lands on either side of the railway are not inclosed and either settled or improved.

To appreciate properly the nature and scope of that dealing and of the duties imposed upon the Board and jurisdiction given it by virtue of only these excepting words, for everything turns upon the range of this exception, I have searched through the Act to find if and how such excepting phrases are used elsewhere therein.

I have also endeavoured to find in how far and in what cases and manner a general legislative power or specific power of regulation is given.

For by its nature this order must rest upon the legislative powers of the Board which are quite distinct from its judicial and administrative powers.

SESSIONAL PAPER No. 20c

Their legislative power is not confined to the subject-matters indicated in section 30 of the Act, extensive as these are, but in many places is specifically given either expressly or by clear words of implication on and over a great variety of subjects.

For example, in the minor matters of practice and procedure in section 51, and of what and how plans are to be filed as is required by sections 164 and 165 and many others, all relevant to the conduct of the business of the Board, legislative power is expressly given though from the nature of each of such subjects such powers might have been left to repose in necessary implication if any should be so left.

Then of a more important and more distinctly general legislative character we find section 264 implies by its language a general power to direct certain things relative to equipment of cars and locomotives and enabling by express words the passing of a general regulation suspending from time to time compliance with the provisions of that section.

We also find illustrations in section 269 which enables making regulations for working trains; section 284, subsection 4, which seems to imply making general regulations for traffic accommodation; section 321, as to classification of freight traffic; section 340, as to the limiting of liability or right to contract as to same; section 357, as to publication of tariffs, and section 400, as to increased tolls in a certain class of cases.

These are some of many of a like kind covering many spheres of action and mingled as it were in some cases with many express statutory provisions on the like subject-matters.

It is this feature of the Act which impresses me.

Where Parliament felt it might have failed to cover every emergency it has expressly or by clear implication conferred a legislative power to cover the omissions experience might find needful. What is the proper inference to be drawn if it is not that where the legislative power as in the cases in hand is not clearly given, it is not intended to be exercised?

Then we have the numerous exceptions, somewhat slightly varied in language, of the same nature as that covered by the exception under consideration.

For example, section 180, subsection 5, uses the expression 'except by leave of the Board.' Section 236, 'unless otherwise directed by the Board.' Section 242, 'unless the Board otherwise directs.'

I find in these illustrations two distinct and different methods of dealing with matters relegated to the Board:

Where the matter is intended to be dealt with legislatively, Parliament has uniformly found it necessary to say so, and distinctly confers the power. Where it is intended the Board shall act in its judicial or administrative capacity then in many cases we find the

'unless the Board otherwise directs' or its equivalent. Here the expression is that of 'orders or directs,' even more clearly, I think, pointing to specific adjudication.

Then we have the 'locality' referred to of which there must be many. It is surely clearly intended that the words 'unless the Board otherwise orders or directs' at the end of the sentence should be held to relate to the antecedent part of the sentence which the word 'locality' limits.

It seems to have been intended to confine the ordering or directing to each locality as the subject or place in respect of which a hearing is to be had and action is to be taken.

I do not doubt more than one such might be included in one order.

The order made is, I think, clearly of a legislative character.

It is a re-casting of the scheme of the section. It throws on the railway company the onerous burthen Parliament had relieved it of and then provides for a special application and relief thereupon.

1 GEORGE V., A. 1911

I am inclined to think it more in accordance with good, practical, common sense, if I may be permitted to say so, than the plan of the Act.

Yet it is distinctly legislative in character and that where the phrase used is not an apt one to confer such powers, and the sentence, as a whole, does not imply action of that kind, but of a judicial and administrative character relative to a specific case when it arises.

I cannot assign legislative power to the phrase without leading to possible absurdities or at least inconsistencies when we consider its use elsewhere.

Another consideration weighs much with me, and that is this. When a specific Act or thing has been dealt with by the Board, and a question raised of its jurisdiction by appeal here, our decision ends the matter unless appealed to the Privy Council by those concerned.

In the case of any excess of jurisdiction relative to some legislative power of assertion of such power where none exists and the jurisdiction is left unattacked or by us improvidently maintained, no one is so concerned as to carry the matter to the ultimate appellate court. Those indirectly so may await some specific accident case in which to raise it and carry the matter as a test then to the Privy Council with very undesirable results if the jurisdiction is not upheld, unless a more extensive meaning is given section 56, subsection 9, than I assign to it.

Unless the legislative power is clear it better be made so, or in case of doubt, be resolved (as we do in regard to our own) against jurisdiction.

The question of power as to fencing in places where construction is in process seems more clearly beyond the Board's jurisdiction than the other.

The suggestion that these orders might be rested upon section 30, subsection (g), is not tenable. The fact that cattle-guards are named and fences omitted is surely enough in itself to dispose of that. Cattle-guards are referred to as well as fences in section 254. But the question of what was the best kind of cattle-guard long agitated those concerned and possibly does yet. It was necessary to give the power to the Board of deciding as to a specific form or device of cattle-guard, and insisting if need be on its adoption by the companies when something is found to fill the bill and they might naturally be reluctant to change all their old devices.

No such question rose before the mind of any one in regard to fencing. That was doubtless thought to be finally disposed of and to need no more legislation.

It seems to me the appeal must be allowed.

DUFF J. (dissenting).—The validity of the second of the impeached provisions depends upon the construction of the 4th subsection of section 254, read, of course, with such other provisions of the Act as may throw light on it. The effect of the whole section (254) appears to me to be this: The territory through which any given railway passes is for the purpose of the section conceived as embracing two classes of localities; 1st, those in which the lands on both sides of the railway are neither inclosed and settled nor inclosed and improved; and 2nd, localities in which some of the lands on at least one side of the railway falls within one or other of those categories; and the enactment imposes upon the railway company the duty of maintaining fences, cattle-guards and farm-crossings in the last mentioned class of localities and does not impose that duty in respect of the first mentioned. But this is not the whole of the legislative provision. The positive requirement to fence when the railway passes through a locality of the second-class is only the irreducible minimum of this kind of protection for the public which is ordained by the Act. In respect of the first class of localities no such absolute duty is imposed; but the whole question of fencing, &c., in such localities is reserved to be dealt with by the Board of Railway Commissioners.

This view of the section is that upon which the Board of Railway Commissioners appears to have acted, and although (since my learned brothers agree in

SESSIONAL PAPER No. 20c

thinking it erroneous), I must, of course, be wrong, I cannot profess to entertain any real doubt that the Board has correctly interpreted the intention of the legislature.

The rival view of subsection 4, put forward by Mr. Chrysler, is that the Board is empowered to make an order or direction under subsection 4, touching the subjects there dealt with only when satisfied judicially upon special considerations applicable to a specified locality that the measures provided for by the order are necessary. I shall briefly give my reasons for thinking this construction untenable, and the grounds upon which I think the view of the Board of Railway Commissioners should be supported will appear as I proceed.

In any suggested view of the power in question one does not readily see upon what principle the exercise of it can be described as the exercise of a judicial function. Assuming the authority to be confined to the promulgation of orders and directions applicable only to a specified railway and to a defined locality it is still quite obvious that in determining in a given case whether such an order or direction shall or shall not be given, the Board does not act upon any rule, principle or standard prescribed for it by the statute or by any other authority; it acts only upon such principles and standards as in the exercise of its own judgment it sets up for itself. And that is by no means all. An order of the Board under this enactment assuming it to be a specific order in the sense mentioned, actually alters the law governing the specific case dealt with. The company being, prior to the order, under no duty to fence becomes—solely in consequence of the order itself—subject to an obligation to do so; and the order itself—when published in the manner prescribed—has, by virtue of section 31 the same force as if enacted in the Railway Act. The order, in a word, does not merely give rise to a legal duty to some individual or determinate body of individuals; but constitutes an enactment on the violation of which the company is subjected to the same consequences as if it were found in the Act itself.

Such specific commands (as distinguished from rules or regulations governing all cases falling within a general description), although usually classed by legal writers as administrative, are strictly legislative in their character. There may no doubt be cases in which it would be difficult to draw the exact line between the functions that are in this sense administrative and functions that are judicial. Still the broad distinction between a function which finds its operation in determining what the law is to be for the future (whether governing one case or governing many cases) and that which is concerned with the application of some existing general rule, principle or standard to a particular case is a very plain and very familiar distinction. It is admirably illustrated in this sentence from the judgment of the Supreme Court of the United States in *Interstate Commerce Commission v. Cincinnati, New Orleans and Texas Pacific Railway Company* (1), at page 499:

It is one thing to inquire whether the rates which have been charged and collected are reasonable—that is a judicial act; but an entirely different thing to prescribe rates which shall be charged in the future—that is a legislative act; and it seems not to be at all difficult of application in the case before us.

Such being the character of the authority exercisable is the exercise of it limited in the way contended for; that is to say, must any order under it be confined in its application to a specific railway and to a defined locality?

Looking first at the language of the subsection itself it is at once apparent that regarding only the grammatical sense of the words employed the authority of the Board to 'otherwise order or direct' is not in any way subject to any such limitation. Is there any ground for implying it? I think there is none; on the contrary, there are very cogent reasons against such an implication. On the construction proposed it is obvious that before exercising its authority in any particular case the Board must first determine and define the locality in respect of which the order is to be

1 GEORGE V., A. 1911

made. Its jurisdiction exhypothesis must rest upon the correctness of its own view, that the locality so defined is a locality within the meaning of the section—the notion of ‘locality’ having no sort of relevancy except in that sense. Now, the most cursory examination of the section will reveal the pitfalls besetting the path of an authority exercising a jurisdiction resting on such a condition. What is a ‘locality’ within the meaning of this sub-section? What are ‘local considerations?’

Assume, for example, a railway passing through a string of localities, some falling under sub-section 4, while in the others sub-section 1 is applicable; and that the Board considered it desirable that the line should, through all of them, be fenced. The Board has power to enforce sub-section 1 by an order directing fencing in localities to which it applies and to make a similar order in respect of the other localities under sub-section 4. In other words, the Board has power to direct fencing throughout the whole line and has determined it is desirable to do so. According to the construction contended for it is at this point that the difficulties of the Board begin. In order to carry into effect its determination it must, according to that view, first ascertain and define in a series of separate orders, the exact limits of the localities in respect of which it is exercising its authority under sub-section 4. Having ex-hypothesi as enforcing sub-section 1 or as exercising the power given by sub-section 4, the authority to direct fencing throughout the whole line and having determined to do so, the Board is disabled from exercising at once all its powers by the promulgation of a single order, but must, as a condition of its jurisdiction, first proceed to segregate the localities falling within sub-section 4—while a mistake in this process of labelling would in any particular case be fatal to the validity of the order.

It is obvious that such a construction must in practice give rise to much uncertainty in the application of the enactment and afford a field for much preliminary controversy upon the authority of the Board in particular cases; so much so, indeed, that I fear it will rob the provision of any sort of practical efficacy. I take it to be axiomatic that you must not imply a term in a statutory enactment if it is likely to defeat the purpose of the enactment as disclosed by the words actually used; and on this ground alone the implication suggested is not, I think, admissible.

It is further to be observed that the subject of the regulation of structures upon a railway in the aspect of that subject which touches the public safety is dealt with in another section of the Act, section 30 (g), which confers upon the Board in respect of such structures and for the purpose of protecting the property and persons of the public the broadest powers of general regulation. The language of that provision is certainly extensive enough to embrace the subjects of fencing and cattle-guards, and the subject of cattle-guards is expressly mentioned. No doubt the first subsection of section 254 does, within the field of its operation, displace the authority conferred by section 30 (g), at all events as regards the subject of fencing; but subsection 4 must, I think, be read with the earlier provision, and reading the two provisions together the most natural construction of the words ‘unless the Board otherwise orders or directs’ seems to be that localities to which subsection 4 applies, or in other words, localities not subject to the subsection 1 are, in respect to the subjects mentioned, reserved to be dealt with by the Board in this exercise of the general powers given by section 30 (g). If that be the true view there can be no doubt that the form of the Board’s orders, the circumstances in which they are to be made, and the considerations by which, in making them, the Board is to be governed, are all in the largest manner left to the Board itself to determine.

As to the first provision, I think that under the Act as it now stands there is, in respect of localities falling within the scope of the first subsection, an unqualified duty to fence. The provision, it is true, is drawn in such a way as to embrace localities within subsection 4 as well, but in view of that subsection already stated, the provision is not by reason of the generality of its terms, open to objection.

I should, therefore, dismiss the appeal with costs.

SESSIONAL PAPER No. 20c

ANGLIN, J.—The Canadian Northern railway appeals against so much of a general order pronounced by the Board of Railway Commissioners, *proprio motu*, as requires, amongst other things, that

(a) All railway companies subject to the jurisdiction of the Board shall as to all railway lines completed, owned or operated by them, where the lands on either side of the railway are not inclosed, settled or improved, on or before January 1, 1911, erect and maintain on each side of the right-of-way, fences of a minimum height of four feet six inches with swing gates at farm crossings with minimum height aforesaid with proper hinges or fastenings.

And prescribes that

(b) As to lines not yet completed or opened for traffic or in course of construction . . . where the railway is being constructed through inclosed lands it shall be the duty of a railway company to at once construct such fences, or take such other steps that (sic) will prevent cattle and other animals escaping from such inclosed lands.

The order further provides that

6. Where it shall be made to appear to the Board that no necessity exists for the fencing or other works hereinbefore directed, the company or companies may apply to the Board for exemption from fencing and other works, and such exemption may be made as the Board deems proper

Section 254 of the Dominion Railway Act (R.S.C. 1906, chap. 37) reads as follows:—

254. The company shall erect and maintain upon the railway,—

(a) fences of a minimum height of four feet six inches on each side of the railway.

(b) swing gates in such fences at farm crossings of the minimum height aforesaid, with proper hinges and fastenings; provided that sliding or hurdle gates, constructed before the first day of February, one thousand nine hundred and four, may be maintained; and

(c) cattle-guards on each side of the highway at every highway crossing at rail level with the railway.

4. Whenever the railway passes through any locality in which the lands on either side of the railway are not inclosed and either settled or improved, the company shall not be required to erect and maintain such fences, gates and cattle-guards unless the Board otherwise orders or directs.

The provisions of the order of the Board as to such portions of railway as pass through lands ‘not inclosed, settled or improved,’ the appellants contend are a reversal of the policy of Parliament, as declared by subsection 4 of section 254 of the Railway Act. This clause of the statute, they maintain, contemplates that as a general rule a railway company shall not be obliged to fence its right-of-way through lands not inclosed and not settled or improved, and that the obligation to fence the railway through such lands shall arise only when the Board of Railway Commissioners shall so order and direct in each particular locality.

I appreciate the difficulty of defining the limits of a ‘locality,’ or determining what extent of territory it may embrace. But I am satisfied that an order directing the erection of fences along the lines of all railways which pass through uninclosed lands not settled or improved in any part of Canada is not an order for the erection of such fences in ‘any locality’ within the meaning of that phrase as used in subsection 4 of section 254.

Mr. Ford, in supporting this part of the order, argued that the earlier part of subsection 4 was merely meant to describe the kind of country in which a railway company is not, without an order of the Board, general or particular, required to erect and maintain fences; and that that subsection contemplates that the Board may make a general order for the fencing of all railways wherever they pass through

1 GEORGE V., A. 1911

uninclosed lands not settled or improved; if the subsection had read: 'wherever the railway passes through lands on either side of the railway not inclosed, &c.'—this interpretation might be maintained; but it obviously treats the words 'through any locality' as mere surplusage and excludes them from consideration in the construction of the clause. This seems to me contrary to the fundamental canon of construction which requires that in constructing a statute effect shall if possible be given to every word.

As I read clause 4, it imports that an order requiring fencing shall be pronounced only when the Board is judicially satisfied that in the localities in regard to which such order is made fencing is necessary. To reach such a conclusion judicially pre-supposes investigation and inquiry as to the localities to be affected by the order, as a result of which the Board is satisfied that necessity for fencing there exists. The recital in the written opinion of the Chief Commissioner of the circumstances which led to the making of this order and the presence in the order itself of paragraph 6 above quoted, satisfy me that the part of the order now under consideration was not pronounced in the proper exercise of the judicial functions of the Board after investigation of the circumstances of all localities in Canada in which railways pass through uninclosed lands, not settled or improved, but that it is rather a declaration by the Board that, after an investigation admittedly partial, but in its opinion sufficiently extended, it has reached the conclusion that, as to all portions of railways passing through such lands in any part of Canada, the railway companies should *prima facie* and generally, be required to fence, and that the burden should be cast upon them of obtaining exemption from this obligation by satisfying the Board that in particular localities no necessity exists for fencing, &c. Such an order is, in my opinion, tantamount to legislation repealing subsection 4 and substituting for it a provision precisely the reverse in policy, operation and effect. To do this was, I think, notwithstanding the very broad terms in which the sections of the statute conferring and defining its jurisdiction are couched, beyond the power of the Board of Railway Commissioners.

I agree, therefore, with the contention of the appellants, that the Board had not jurisdiction to pronounce this general order requiring that every railway company throughout Canada, wherever its lines pass through uninclosed lands, not settled or improved, shall erect and maintain statutory fences, with swing gates along their right-of-way, unless it shall apply for and obtain exemption from the Board I think the appeal of the Canadian Northern Railway Company against this portion of the order should be allowed.

This part of the order was treated by counsel for the railway company as made under subsection 4, of section 254. No doubt it was so intended. That subsection, however, deals with—

any locality in which the land on either side of the railway are not inclosed and either settled or improved.

In drafting the order the words 'and either' have been, no doubt inadvertently, omitted. Without them the clause of the order under consideration is wider than the exception created by subsection 4, of section, 254, and would cover uninclosed lands though 'settled or improved.' In such cases any departure from the language of the statute, however unimportant it may appear, is always fraught with danger. If this paragraph of the order could be otherwise supported under subsection 4, of section 254, it would probably be necessary to remit it to the Board for modification by inserting the words of the statute which have been omitted.

As to the other part of the order to which exception is taken, it will be noted that the direction is not necessarily to fence. It is to

construct such fences or take such other steps that will prevent cattle and other animals escaping from such inclosed lands.

SESSIONAL PAPER No. 20c

By section 2, subsection 21, 'railway' is defined as including 'property real or personal and works connected therewith.' Having regard to this definition I see nothing in section 254 which requires the Board to abstain from ordering that fences shall be erected along the right of way before the railway is ready for operation, when, it is admitted, the duty to fence exists and may be enforced. Where the railway passes through inclosed lands, *i.e.*, where the right-of-way of the company—its real property—is carried through inclosed lands, the statute says that 'the company shall erect and maintain upon the railway,' *i.e.*, upon its real property,

fences suitable and sufficient to prevent cattle and other animals from getting on the railway.

i.e., on such real property.

But, if, as argued by Mr. Chrysler, the obligation to fence under section 254 arises only when the railway commences operation, the Board, in my opinion, had power, under section 30, clause (g), to pronounce the portion of their order now under discussion. By that section it is provided that

the Board may make orders and regulations . . . (g) with respect to the . . . methods, devices, structures, and works to be used upon the railway (which includes its real property) so as to provide means for the due protection of property.

It was argued that, because fences are dealt with by section 254, and are not specifically mentioned in clause (g) of section 30, it must be taken that it was not intended thereby to empower the Board to order the erection of fences as a method, device, structure or work, for the protection of property. The order may be complied with without the erection of fences, if other adequate steps are taken. It directs that the railway company shall 'construct such fences or take such other steps, &c.,' moreover, section 254 either applied to the right-of-way before the rails are laid, or it does not. If it applies the order in appeal may be supported as an enforcement of its provisions (section 30, (h) and (i); if it does not so apply, its presence in the statute affords no reason for excluding from the purview of section 30 (g), as something elsewhere specifically provided for, the erection of fences as a means for the due protection of property pending the completion of the railway.

I think it is clear that either under subsection 1, of section 254, or under the comprehensive language of clause (g) of section 30, the jurisdiction which they have here exercised is conferred upon the Board of Railway Commissioners.

It has been suggested that subsection 1 does not apply to all localities in which the railway passes through inclosed lands which are not only inclosed, but also settled or improved. This is said to be the effect upon subsection 1 of the exception made by subsection 4.

It is, I think, incontestable that such portions of every railway as are not within the exception of subsection 4, are within the first subsection. To understand the limitations upon the application of subsection 1, it is, therefore, necessary to ascertain with precision what parts of a railway are within subsection 4.

By subsection 4 are excepted not all localities in which lands are 'not inclosed,' but only those in which there are lands not inclosed which are also not 'either settled or improved,' *i.e.* Localities in which there are (A) lands not inclosed and not settled or (B) lands not inclosed and not improved. Uninclosed lands which are improved or settled, and unimproved or unsettled lands which are inclosed are not within the exception. Therefore, localities in which the lands answer to either of these latter descriptions are within subsection 1.

If they are not it must be because they are within the exception, and if so, the exception is in reality of all localities in which the lands are not inclosed, whether improved or unimproved, settled or unsettled: and the words, 'and either settled or improved,' are read out of the exception.

1 GEORGE V., A. 1911

The only other possible construction of the exception is read to the word 'not' as applicable only to 'inclosed,' which would be equivalent to inserting the word 'are' after the word 'and,' so that the phrase would read—'in which the lands . . . are not inclosed and (are) either settled or improved'—a palpably wrong construction because it would exclude from the exception the very localities in which fencing is least of all requisite. *Viz.*, those in which the lands are neither inclosed nor settled or improved.

I, therefore, think that all localities in which the lands on either side of the railway are inclosed, whether they are improved or unimproved, settled or unsettled, are within subsection 1, because clearly not within the exception; and in addition subsection 1 covers localities in which such lands, though not inclosed, are either settled or improved. Otherwise either localities in which the lands answer the latter description are unprovided for—which is contrary to the view that the section as a whole embraces all parts of all railways—or all localities where lands are not inclosed are within the exception—a construction which, as already pointed out, involves reading out the words 'and either settled and improved.'

I have not overlooked the decision of Street, J., in *Phair v. Canadian Northern Railway Company* (1). Without expressing any opinion as to the correctness of that decision upon the language of the statutes as it then was, it suffices to say that Parliament has since altered the phraseology of subsection 4 and it is not unreasonable to suppose that by the alteration of phraseology it intended to effect some change in the law. But whether this be so or not, subsection 4, as it now stands, must be given that construction for which its present form seems to call.

No doubt before the railway is under actual construction, although the right-of-way has been fully acquired, the owners, through whose inclosed farms it runs would be amply protected by and fully satisfied with an order requiring the company to maintain intact the line fences crossing their right-of-way or to take other steps sufficient to prevent cattle 'escaping from such inclosed lands,' under clause (g) of section 30, if section 254 is not applicable, such an order might be made, but if section 254 applies—an order might be made, as I think it does—the only order authorized is an order requiring the erection and maintenance of statutory fences, &c., 'to prevent cattle and other animals from getting on the railways.' That the Board would have jurisdiction to make such an order I think sufficiently clear; its reasonableness would not be for our consideration; but it would scarcely seem necessary before construction is commenced to require the company to fence in order to prevent cattle getting upon its right-of-way, which is then for all practical purposes still part of the farms through which it runs. Whether as a condition of exempting it from the obligation to fence its right-of-way before construction the Board could order that the company should, until actual construction commences maintain existing farm fences so as to prevent cattle escaping from inclosed lands through which its right-of-way passes may be open to some question; but having regard to the provisions of subsection 2, of section 30, I incline to think that such an order might be made.

The order in question, however, relates only to cases 'where the railway is being constructed.' It, therefore, would seem inapplicable to cases in which the work of construction has not commenced. Where construction is actually proceeding it is in many localities accompanied by danger to cattle and other animals straying upon the right-of-way quite as great as those incidental to the actual operation of a railway. In such cases not only in my opinion has the Board the power to require the erection of statutory fences to prevent 'cattle or other animals from getting on the railway,' but it would be entirely reasonable that such an order should be made.

For these reasons I am of the opinion that the portion of the order of the Board dealing with inclosed lands 'where the railway is being constructed' has not been successfully attacked, and that as to it the appeal should be dismissed.

SESSIONAL PAPER No. 20c

The order should, however, be varied by substituting for the words 'escaping from such inclosed lands' the words of the statute—'from getting on the railway.' This alteration we cannot make; but the necessary amendment will no doubt be made by the Board itself.

Appeal allowed in part.

CARRIAGE OF SILVER AND OTHER VALUABLE ORES.

This matter arose in connection with a complaint that the rates on ore charged by Canadian railways discriminated in favour of the United States smelters against the industry of smelting and refining in Canada. The matter was subsequently dealt with on an application of the Grand Trunk Railway Company of Canada under section 353 of the Railway Act to the Board for approval of the form of 'release' or special contract respecting the carriage of silver and other valuable ores and subsequently on June 3, 1909, the following general order was made:—

Upon reading what was alleged in support of the application:—

It is ordered that the form of 'release' or special contract respecting the carriage of silver and other valuable ores, approved by the said order of the Board No. 6972 dated May 6, 1909, be extended to apply to all railway companies under the jurisdiction of the Board, the said companies being hereby authorized to use the said form upon their respective lines of railway until the Board shall hereafter otherwise order and determine.

(Signed.) D'ARCY SCOTT,
Asst. Chief Commissioner,
Board of Railway Commissioners for Canada.

LEVEL CROSSING PROTECTION AND GRADE ELIMINATION

Among the foregoing amendments to the Railway Act is the following section:—

'4. No train shall pass over any highway crossing at rail level at a greater speed than ten miles an hour, if at such crossing an accident has happened subsequent to the first day of January, nineteen hundred, by a moving train causing bodily injury or death to a person using such crossing, unless and until such crossing is protected to the satisfaction of the Board; and no train shall pass over any highway crossing at rail level at a greater speed than ten miles an hour in respect of which crossing an order of the Board has been made to provide protection for the safety and convenience of the public and which order has not been complied with.

'5. The company shall have until the first day of January, one thousand nine hundred and ten, to comply with the provisions of subsection 4 of this section.'

The Board realizing the necessity of obtaining from the railway companies as speedily as possible returns of all highway crossings at which an accident had happened subsequent to January 1, 1900, issued the following order July 8, 1909:—

It is ordered that all railway companies subject to the jurisdiction of the Parliament of Canada do, on or before September 1, 1909, furnish to and file with the Board:—

1. A return of all highway crossings upon its line or lines of railway at which an accident has happened subsequent to the first day of January, 1900, by a moving train causing bodily injury or death to a person using such crossing.

2. In the event of more than one accident of the character aforesaid having happened at any such crossing, such return shall so indicate.

1 GEORGE V., A. 1911

3. That such return shall cover all accidents of the character aforesaid up to the date thereof.

4. That after the filing of the said returns with the Board, each of the companies aforesaid shall, immediately upon the happening of an accident or accidents of the character aforesaid, furnish to and file with the Board a return of all such accidents happening upon its lines subsequent to the date of the return required by paragraph 1 hereof.

5. The said returns shall be certified to by an officer or official of the railway company, who shall have the necessary knowledge, obtained by inquiry or otherwise, to justify such certification.

6. The said returns shall be in the form appearing as schedule 'A' hereto.

7. The information set forth in the said returns shall be full and explicit.

(Signed) J. P. MABEE,
Chief Commissioner,
Board of Railway Commissioners for Canada.

This order was sent to all railway companies subject to the Board's jurisdiction together with the following:—

[Circular No. 39.]

BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

OTTAWA, July 15, 1909.

Re Level Crossing Protection and Grade Elimination.

It is apparent from the legislation of last session, the discussion in Parliament, and the general expression of public opinion, that the Board is expected to initiate a definite movement towards the elimination of grade crossings and the protection of others that may be regarded as dangerous.

It is the desire of the Board to deal with this important matter in a way that will not be unreasonably onerous upon the railway companies, but at the same time it fully appreciates the fact that little can be accomplished without large expenditure and therefore it is particularly anxious that no mistakes shall be made and that no expense shall be incurred that is not fully warranted.

The Board has for some time been collecting information and particulars regarding crossings that require protection, but before acting in the matter thought the proper course to pursue would be to ask the railway companies themselves to furnish a list of crossings upon their lines that in their opinion should be the ones to make a start at, as it would seem that those upon whom the responsibilities of railway operation rest should be the best informed as to the crossings upon their various lines that are the most dangerous.

If this course is followed, it is felt that it will materially assist in directing expenditures at points where the greatest benefit to all concerned will ensue, but upon the other hand if the companies, or any of them, have objections to this suggestion the Board trusts they will feel at perfect liberty to disregard it.

If it is thought desirable to co-operate with the Board, the information given should cover crossings upon the whole system of each company and should not be confined to any one province or locality.

Subject to hearing the views of the companies, it is the present intention of the Board to select a certain number of crossings each year, call upon persons, corporations and companies that it may be thought should contribute, before the Board and after hearing all concerned, direct the character of the protection and apportion the cost.

SESSIONAL PAPER No. 20c

The Board will be glad to have suggestions from the companies upon this matter submitted in writing by, say October 1, 1909.

All the principal railway companies promptly furnished the necessary information and on November 30, with the assistance of the companies, certain crossings were selected to be dealt with at Ottawa on January 4, 1910; Toronto on January 27, 1910; and Montreal on February 7, 1910, and the various municipalities in which the grade crossings lay were notified that the Board was having them inspected and proposed to take up the question of grade separation or protection thereat, and the municipalities were asked if they had any suggestions to make in connection with the matter. From April 1, 1909, to March 31, 1910, level crossings have been dealt with. While some progress has been made during the year the least consideration of the question shows how difficult the matter is to deal with. The expense of a separation of grade is always a costly work, the local municipality almost always objects to contributing, and of course should not contribute as much as the railway company; in some instances it should not contribute at all; the statute limits the contributions from the Grade Crossing Fund to \$5,000 for any one work, so the principal portions of the cost must always fall upon the railway company, probably it is upon the company that the burden should mostly fall, but it will be at once seen that any undue haste would impose enormous capital expenditure upon the companies, which would probably be found to not have much earning power; of course there are many cases where grade separation works economy in operation, but this is confined mostly to the cities. Protection at level crossings by means of electric bells, flagmen, and gates has been required in many places where grade elimination was impracticable either from physical or financial reasons; these modes of protection greatly increase the expense of operation while in the majority of cases there is no apparent source from which any increased earning is to come, so, while the members of the Board, both personally as well as an administrative body, are keenly alive to the necessity of protecting the public from the ever increasing dangers at level crossings, they are confronted with many difficulties. A careful analysis of the accidents that happen at level crossings will show that at least eighty per cent arise from the carelessness of the individual using the highway and not from the carelessness of the trainmen.

If undue burdens are imposed upon the railways in the way of increased expenditure of operation, or increased capital that is unremunerative the end is plainly seen. Some of the companies may face these expenditures with equanimity, but as to others it would probably mean unreasonably impoverished dividends or increased rates. Again, many municipalities enter into agreements with the railway companies proposing to construct new lines and, to some extent in some cases, tie the hands of the Board before it has a chance to intervene; a striking illustration of this will be found in the Orillia case in Appendix 'D.'

Railway construction in Canada is only in its infancy, plans of new roads are being continually filed and the Board is daily approving plans for their construction; all over the west and through the older provinces, these new roads cross most of the highways at grade—how can it be otherwise, if the roads are to be built? The Board could not obstruct railway building in the west by requiring the elimination of grade crossings; the companies are unable to construct as rapidly as the public demands require, and if no crossings at grade were permitted the roads could not be built—in the result we are approving of at least a hundred grade crossings to every one we succeed in eliminating. It is not sufficient to say these are mostly in new or rural parts—the unfortunate part of the whole matter is that it is in the rural parts where the little used highway crosses that too many of the most painful accidents happen.

Upon the whole, however, the Board feels some satisfaction at what it has succeeded in accomplishing; nothing remains but to proceed with caution and patience, and in the end time alone can work a solution of this problem.

1 GEORGE V., A. 1911

The Board has found the fund voted by Parliament a great assistance in this matter although it could have accomplished more had the control over it been unfettered by the limitation of \$5,000 to any one work.

It is a matter of regret that the provinces have not joined in this work by making reasonable grants as subsection 4 of section 239 (a) of 889 Edw. VII. anticipated they might be inclined to do.

RULES FOR LOADING LONG MATERIAL AND STONE ON FLAT AND OPEN CARS.

This matter was first brought to the attention of the Board in connection with the memorial of the Trainmen's Association of Canada for the adoption of certain regulations having in view the protection of railway employees and in connection with this memorial an order was issued under date of December 16, 1908, order 5888, clause 8 of which order provides that all railway companies shall strictly conform to the rules and regulations from time to time provided by the Master Car Builders' Association governing the loading of lumber, logs and stone on open cars and the loading and carrying of structural material, plates, rails and girders. Subsequently attention was called to a number of accidents, in some instances fatal, caused by defects in the flat and open cars of railway companies used for shipment of long material and stone—not affording proper safeguards for the handling of such traffic. At the sittings held in Ottawa on April 6, 1909, the matter was fully considered. Subsequently the judgment of the Board was delivered by Mr. Commissioner McLean, reasons for which follow the order, and on July 24, 1909, order No. 7599 was issued as follows:—

Upon the report and recommendation of its inspectors, and in pursuance of the powers conferred upon it by sections 30 and 269 of the Railway Act, and of all other powers possessed by the Board in that behalf, it is ordered:—

1. That every railway company subject to the legislative authority of the Parliament of Canada, operating a railway by steam power, shall strictly conform to the rules and regulations from time to time approved by the Master Car Builders' Association governing the loading of lumber, logs and stone on flat and open cars.

2. That if the load on a car shifts in transit, the train crew shall see that it is re-adjusted in accordance with this order before the same is allowed to proceed.

3. That shippers and the railway companies and their operators and employees shall see that all open and flat cars are loaded, and the loads protected in accordance with the terms of this order.

4. That every such railway company shall be liable to a penalty not exceeding fifty dollars for every failure to comply with the foregoing regulations.

5. That every employee of such railway company, and every shipper, shall be liable to a penalty of a sum not exceeding twenty-five (\$25) dollars for every failure to comply with the foregoing regulations.

(Signed) J. P. MABEE,
Chief Commissioner,
Board of Railway Commissioners for Canada.

REGULATIONS FOR THE CARRIAGE OF EXPLOSIVES.

This is a matter that had been receiving the consideration of the Board through its Traffic Department for some time with a view to formulating an order that would safeguard by special regulations the receiving, forwarding, and delivering, of explosives by all carriers. The Board also desired that such regulations should be uniform with respect to shipments from a foreign country into or through Canada, or from Canada

SESSIONAL PAPER No. 20c

to a foreign country, as well as within the Dominion. The matter had been very fully considered by the Interstate Commerce Commission, and as it was almost imperative that the regulations should be the same both in Canada and the United States the regulations established there were adopted by the following order on August 27, 1909. *In the matter of Regulations for the Carriage of Explosives:*

Whereas it appears to the Board to be important in the general interest that the receiving, forwarding and delivering of explosives by all carriers thereof be safeguarded by special regulation, and that such regulations should be uniform with respect to shipments from a foreign country into or through Canada, or from Canada to a foreign country, as well as within Canada;

And whereas the American Railway Association, assisted by experts, has formulated a code of rules, which, in the main, have been prescribed by the Interstate Commerce Commission for observance by the railway companies engaged in interstate commerce in the United States;

And whereas the said regulations of the Interstate Commerce Commission have been recommended by the Canadian Freight Association for the approval of the Board;

Now, therefore, in pursuance of sections 26, 30, 286, and 287 of the Railway Act, and of all powers possessed by the Board under the said Act,

It is ordered that the following regulations for the receiving, forwarding and delivering of explosives be, and they are hereby, prescribed for the observance of every railway company within the legislative authority of the Parliament of Canada which accepts explosives for carriage:—

GENERAL RULES.

A. Unless specifically authorized by these regulations, explosives must not be packed in the same outside package with each other or with other articles. Explosives, when offered for shipment by rail, must be in proper condition for transportation and must be packed, marked, loaded, stowed, and handled while in transit in accordance with these regulations. All packages of less than carload shipments must also be plainly marked on the outer covering or boxing (outside package) with the name and address of consignee. Empty boxes previously used for high explosives are dangerous and must not be again used for shipments of any character. Empty boxes which have been used for the shipment of other explosives than high explosives must have the old marks thoroughly removed before being accepted for the shipment of other articles. Empty metal kegs which have been used for the shipment of black powder not contained in an interior package must not be used for shipment of any explosive.

B. Explosives, except such as are forbidden (see paras. 1501 and 1531 to 1536) may be received for carriage provided the following regulations are complied with, and provided their method of manufacture and packing, so far as it affects safe transportation, is open to inspection by a duly authorized representative of the initial carrier, or of the Bureau for the Safe Transportation of Explosives and other Dangerous Articles of the American Railway Association, if he be so designated by the Canadian carrier. Shipments of explosives that do not comply with these regulations must not be received. Shipments offered by the Dominion government may be packed, including limitations of weight, as required by its regulations.

C. Before any shipment of explosives, destined to points beyond the lines of the initial carrier is accepted from the shipper, the initial carrier must ascertain that the shipment can go forward via the route designated, and that delivery can be made at destination. To avoid unnecessary delays, arrangements must be made to furnish this information promptly to the initial carrier. Shipments offered by connecting lines must be received subject to these regulations.

TESTS FOR STRENGTH OF PACKAGE.

D. Packages receive their greatest stresses in a direction parallel to the length of the car and must, therefore, be loaded so as to offer their greatest resistance in this direction. Cleats or handles, when prescribed for packages, must be so placed as not to interfere with the close packing lengthwise in the car.

E. When inexplosive material of equal weight is substituted (sand for a granular explosive, dummy cartridges for high-explosive cartridges), and the outside package is dropped on its end onto a foundation of solid brick or concrete from a height of four feet, the outside package must not open, nor rupture, nor must any portion of the contents escape therefrom.

F. In addition to standing the test in paragraph *E*, the design and construction of packages must be such as to prevent the occurrence in individual packages of defects that permit leakage of their contents under the ordinary conditions incident to transportation.

G. Violations of these regulations discovered in cars containing explosives, or in the loading or staying of packages, must be corrected before forwarding the car. A report of all serious violations, with a statement of apparent cause (such as defective packing, improper staying, rough treatment of car, &c.), must be made by the carrier to the Secretary of the Board of Railway Commissioners.

GROUPING.

H. For transportation purposes, all explosives are divided into the following groups:—

1. Forbidden explosives.
2. Black powder.
3. High explosives.
4. Smokeless powder.
5. Fulminates.
6. Ammunition.
7. Fireworks.

*Section 1.—Information and Definitions.**Group 1.—Forbidden Explosives.*

(See paragraphs 1531 to 1536).

1501. The following are forbidden explosives:—

- (a) Liquid nitro-glycerine.
- (b) Dynamite containing over 60 per cent of nitro-glycerine (except gelatine dynamite).
- (c) Dynamite having an unsatisfactory absorbent, or one that permits leakage of nitro-glycerine under any conditions liable to exist during transportation or storage.
- (d) Nitro-cellulose in a dry condition, in quantity greater than ten (10) pounds in one exterior package. (See paragraphs 1557 to 1560.)
- (e) Fulminate of mercury in bulk in a dry condition, and fulminates of all other metals in any condition.
- (f) Fireworks that combine an explosive and a detonator or blasting cap. (See paragraphs 1515 to 1644.)

Group 2.—Black Powder.

(See paragraphs 1541 to 1545.)

1502. Black (or brown) powder embraces all explosives having a composition similar to that of ordinary gunpowder, such as carbonaceous material, sulphur, and a nitrate

SESSIONAL PAPER No. 20c

of sodium or potassium. This group includes rifle, sporting, blasting, cannon, and the prismatic powders.

Group 3.—High Explosives.

(See paragraphs 1551 to 1560.)

1503. High explosives are all explosives more powerful than ordinary black powder, except smokeless powders and fulminates. Their distinguishing characteristic is their susceptibility to detonation by a commercial detonator, or blasting cap. Many high explosives are sensitive to percussion and friction. Examples of high explosives are the dynamites, picric acid, picrates, chlorate powders, and nitrate of ammonia powders.

Group 4.—Smokeless Powder.

(See paragraphs 1571 to 1579.)

1504. Smokeless powders are those explosives from which there is little or no smoke when fired. The group consists of smokeless powder for cannon and smokeless powder for small arms. Smokeless powder for cannon used in the United States at the present time consists of a nitro-cellulose colloid, and is safe to handle and transport. Smokeless powder for small arms may consist of nitro-cellulose, nitro-cellulose combined with nitro-glycerine, picrate mixtures, or chlorate mixtures.

Group 5.—Fulminates.

(See paragraphs 1591 to 1593.)

1505. This includes fulminate of mercury in bulk form—that is, not made up into percussion caps, detonators, blasting caps, or exploders.

Group 6.—Ammunition.

(See paragraphs 1601 to 1622.)

1506. Small-arms ammunition consists usually of a paper or metallic shell, the primer, powder charge, and projectile, the materials necessary for one firing being all in one piece, such as is used in sporting or fowling pieces, or in rifle, pistol practice, &c.

1507. Ammunition for cannon embraces all fixed or separate-loading ammunition packed in a single package in which the projectile weighs one pound or over, and is usually transported only for government use. When the component parts are packed in separate outside packages, such packages will be shipped as smokeless powder for cannon, explosive projectiles, empty projectiles, primers, or fuzes. Igniters composed of black powder may be attached to packages in shipments of smokeless powder.

1508. Explosive projectiles, or loaded shells for use in cannon, are not liable to be exploded except by fire of considerable intensity, and the flying fragments would then be very dangerous.

1509. Detonators is the technical name for articles such as blasting caps, the use of which is to cause explosions of a high order, or 'detonations.' This means the instantaneous conversion of the entire explosive into gas instead of the gradual conversion known as 'combustion.' Dynamite 'detonates' and smokeless powder for cannon 'burns.'

1510. Blasting caps contain from 5 to 50 grains of dry fulminate of mercury, or a similar substance, packed in a thin copper cup and fired by a slow-burning safety fuze. When a small 'bridge' of fine wire is embedded in the fulminate, held by a sulphur cast, and arranged to fire the fulminate by heating the bridge by means of an electric current, the cap is called an 'electric blasting cap' or 'electric cap,' or 'electric exploder.'

1511. Detonating fuzes are used to detonate the high explosive bursting charges of projectiles or torpedoes. In addition to a powerful detonator they may contain several ounces of a high explosive, such as picric acid or dry nitro-cellulose, all assem-

1 GEORGE V., A. 1911

bled in a heavy steel envelope, the flying fragments of which, in case of explosion, would be very dangerous. From their careful design, manufacture, and packing detonating fuzes are not liable to be exploded in transportation except by fire of considerable intensity.

1512. Primers, percussion and time fuzes are devices used to ignite the black powder bursting charges of projectiles, or the powder charges of ammunition. For small-arms ammunition the primers are usually called 'small-arm primers' or 'percussion caps.'

Group 7.—Fireworks.

(See paragraphs 1641 to 1647.)

1513. Fireworks include everything that is designed and manufactured, primarily, for the production of pyrotechnic effects. They consist of common fireworks and special fireworks.

1514. Common fireworks include all that depend principally upon nitrates to support combustion and not upon chlorates; that contain no phosphorus and no high explosive sensitive to shock and friction; that produce their effect through colour display rather than by loud noises. If noise is the principal object, the units must be small and of such nature and manufacture that they will explode separately and harmlessly, if at all, when one unit is ignited in a packing case. They must not be designated for ignition by shock or friction. Examples are Chinese firecrackers, Roman candles, pin wheels, coloured fires, serpents, railway fuses, flash powders, &c.

1515. Special fireworks include all that contain any quantity of red or white phosphorus, a fulminate, or other high explosive sensitive to shock or friction; or that contain units of such size that the explosion of one while being handled would produce a serious injury; or that require a special appliance or tool, mortar, holder, &c., for their safe use; or that may be exploded en masse in their packing cases; or that are intended for or may be ignited or exploded by shock or friction. Examples are giant firecrackers, bombs, salutes, toy torpedoes and caps, rockets, ammunition pellets fired in a special holder, railway torpedoes, &c.

Section 11.—Conditions of Acceptance and Shipment of Packages.

Group 1.—Forbidden and Condemned Explosives.

1531. Forbidden explosives, as defined in paragraph 1501, and explosives condemned by the Bureau of Explosives of the American Railway Association, must not be accepted for shipment.

1532. Should any package of high explosives when offered for shipment show excessive dampness or be moldy or show outward signs of any oily stain or other indication that absorption of the liquid part of the explosive is not perfect, or that the amount of the liquid part is greater than the absorbent can carry, the packages must be refused in every instance. The shipper must substantiate any claim that a stain is due to accidental contact with grease, oil, or similar substance. In case of doubt, the package must be rejected. A shipment of leaking dynamite is liable to cause a disaster in spite of careful handling; and storage, especially in warm and damp magazines, tends to cause leakage. Carriers must, for these reasons, examine with more than usual care all packages that have been stored or are offered for shipment during the summer months.

REPACKING OF DYNAMITE.

1533. Condemned dynamite must not be repacked and offered for shipment unless the repacking is done by a competent person in the presence and with the consent of an inspector.

SESSIONAL PAPER No. 20c

DISPOSITION OF INJURED, CONDEMNED, AND STRAY PACKAGES.

1534. Packages found injured or broken in transit may be recoopered when this is evidently practicable and not dangerous. A broken box of dynamite that can not be recoopered should be re-enforced by stout wrapping paper and twine, placed in another strong box, and surrounded by dry, fine sawdust, or dry and clean cotton waste, or elastic wads made from dry newspaper. A ruptured can or keg should be inclosed in a grain bag of good quality and boxed or crated. Injured packages thus protected and properly marked may be forwarded.

1535. Condemned packages of leaking dynamite should (1) be returned immediately to shipper if at point of shipment; or (2) disposed of to a dealer in dynamite, or other person who is competent and willing to remove them from railway property, if leakage is discovered while in transit; or (3) removed immediately by consignee if shipment is at destination.

When disposition cannot be made as above, the leaking boxes must be packed in other boxes large enough to permit, and the leaking boxes must be surrounded by at least 2 inches of dry, fine sawdust, or dry and clean cotton waste, and be stored in station magazine or other safe place, until arrival of an inspector or other authorized person to superintend the destruction of the condemned material.

1536. When name and address of consignee are known, a stray shipment must be forwarded to its destination by the most practicable route, provided a careful inspection shows the packages to be in proper condition for safe transportation. Revenue and card way bills must be prepared, and on them must be written or stamped 'stray shipment, inspected at station, railway, 19 ,' except in cases where authority can be obtained by wire from the original forwarding station to stamp these waybills 'Shippers' certificate, file.' (See paragraph 1668.)

When a package in a stray shipment is not in proper condition for safe transportation (see paragraph 1534), or when name and address of consignee are unknown, disposition will be made as prescribed by paragraph 1535.

Group 2.—Black Powder.

1541. *Packing.*—Packages containing less than twelve and a half ($12\frac{1}{2}$) pounds of rifle, sporting, blasting, or cannon powders must be inclosed in a tight box, so that the filling holes of the packages will be up, and the boxes must be marked on top, as prescribed by paragraph 1544,

1542. Twelve and a half ($12\frac{1}{2}$) pounds or over of black or brown powder must be packed in packages that comply with general rules *D*, *E*, and *F*. Kegs less than 9 inches long must be boxed, as prescribed by paragraph 1541.

1543. *Weight.*—Packages must not weigh over 150 pounds gross.

1544. *Marking.*—Each outside package must be plainly marked, stamped, or stenciled to show the kind, 'black' or 'brown,' and the use, 'blasting,' 'rifle,' 'cannon,' 'mortar,' &c.: as 'black blasting powder,' 'black rifle powder,' &c. Additional marks, trade names, &c., may appear if desired by shipper.

1545. *Car.*—A car containing shipments of black powder in any quantity must be certified and placarded as prescribed by paragraphs 1661 and 1666.

Group 3.—High Explosives.

1551. High explosives consisting of a liquid mixed with an absorbent material must have the absorbent (wood pulp or similar material) in sufficient quantity and of satisfactory quality, properly dried at the time of mixing; nitrate of soda must be dried at the time of mixing to less than one per cent of moisture; and the ingredients must be uniformly mixed so that the liquid will remain thoroughly absorbed under the most unfavourable conditions incident to transportation.

1552. Explosives containing nitro-glycerine must have uniformity mixed with the absorbent material a satisfactory antacid which must be in quantity sufficient to have

1 GEORGE V., A. 1911

the acid neutralizing power of an amount of magnesium carbonate equal to one per cent of the nitro-glycerine.

1553. *Packing*.—High explosives, containing more than 10 per cent of nitro-glycerine, must be made into cartridges not exceeding 4 inches in diameter, or 8 inches in length (does not apply to gelatine dynamite), and must not be packed in bags or sacks. Bags or sacks of high explosives, containing not more than 10 per cent of nitroglycerin and not over $12\frac{1}{2}$ pounds each of explosives, will be accepted as cartridges, but these bags must be strong and must be placed in the box with filling ends up. The covering of all cartridges, consisting of paper or other material, must be strong and so treated that it will not absorb the liquid constituent of the explosive.

1554. All boxes in which cartridges containing nitro-glycerine are packed must be lined with a suitable material that is impervious to liquid nitro-glycerine. Cardboard cartons closed at the bottom and made of strong and flexible material that is impervious to nitro-glycerine form a satisfactory lining. At least one-quarter of an inch of dry sawdust or similar material must be spread over the bottom of the box before inserting the cartridges, and all the vacant space in the top must be filled with this material. The cartridges, except the bags or sacks authorized in paragraph 1553, must be so arranged in the boxes that when they are transported with the boxes top side up all cartridges will lie on their sides and never on their ends.

1555. The boxes must be strong (general rules *D, E, F*), the lumber throughout must be sound and free from loose knots, and, when made with lock corners, must not be less than one-half inch in thickness. When nailed boxes are used, the ends must not be less than 1 inch, nor the sides, top, and bottom less than one-half inch in thickness. The limits for thickness refer to the finished box and not to the undressed lumber.

1556. High explosives, containing no explosive liquid ingredient, and not having, with their normal percentage of moisture, a sensitiveness to percussion greater than measured by the blow delivered by an 8-pound weight dropping from a height of five (5) inches on a compressed pellet of the explosive, three-hundredths of an inch in thickness and two-tenths of an inch in diameter, held rigidly between hard steel surfaces, as in the standard impact testing apparatus of the Bureau of Explosives of the American Railway Association, will be accepted for shipment when securely packed in bulk in tight packages that comply with general rules *D, E, F*. These explosives may also be packed in cartridges, and must be so packed when their sensitiveness is greater than the above limit.

1557. *Dry Nitro-cellulose*.—Inside packages containing not more than one pound each of dry nitro-cellulose, wrapped in strong paraffined paper, or other suitable spark-proof material, will be accepted for shipment if securely packed in an outside package that complies with general rules *D, E, and F*, and is marked as prescribed in paragraph 1559. Outside packages must not contain more than ten (10) pounds of dry nitro-cellulose.

1558. *Weights*.—High explosives containing an explosive liquid ingredient must not exceed sixty-five (65) pounds, gross weight, in one outside package.

High explosives containing no liquid explosive ingredient as defined in paragraph not exceed sixty-five (65) pounds, gross weight, in one outside package.

The gross weight of an outside package containing dry nitro-cellulose, packed as defined in paragraph 1557, must not exceed 35 pounds.

1559. *Marking*.—The boxes must be plainly marked on top and on one side or end 'high explosive—dangerous.' The top must be marked 'this side up.'

1560. *Car*.—For shipments of high explosives in any quantity, the car must be certified and placarded as prescribed in paragraphs 1661 and 1666.

SESSIONAL PAPER No. 20c

*Group 4.—Smokeless Powder.**Smokeless Powder for Cannon.*

1571. *Packing.*—Smokeless powder for cannon must be packed in tight boxes free from loose knots and cracks, or in kegs, that comply with general rules *D*, *E*, and *F*.

1572. *Weight.*—Packages must not weigh over 152 pounds gross.

1573. *Marking.*—Each package must be plainly marked on top ‘Smokeless powder for Cannon.’

1574. *Car.*—Smokeless powder for cannon may be shipped in any box car in good condition. The car must be placarded ‘Inflammable’ as prescribed by paragraph 1663.

Smokeless Powder for Small Arms.

1575. *Packing.*—Packages of less than nine (9) pounds of smokeless powder for small arms must be inclosed in a tight box so that the filling hole of each inside package will be up, and the box must be marked on top as prescribed by paragraph 1578.

1576. Quantities of 9 pounds or over must be placed in packages that comply with general rules *D*, *E*, and *F*. Kegs less than 9 inches long must be boxed as prescribed by paragraph 1541.

1577. *Weight.*—Packages weighing over 31 pounds gross will not be received unless packed under the supervision of and shipped for the use of the Dominion government.

Packages weighing not over 30 pounds gross each may be inclosed in an outside package, in which case the gross weight must not exceed 150 pounds.

1578. *Marking.*—Each outside package must be plainly marked on top ‘Smokeless powder for small arms.’

1579. *Car.*—Shipments of smokeless powder for small arms in any quantity require a car to be certified and placarded as prescribed by paragraphs 1661 and 1666.

Group 5.—Fulminates.

1591. *Packing.*—Fulminate of mercury in bulk must contain when packed not less than twenty-five (25) per cent of water, and must in this wet condition be placed in a bag made of heavy cotton cloth of close mesh equal in quality and weight to the cotton twill used for pockets in high-grade clothing. There must be placed inside the bag and over the fulminate a cap of the same cloth and of the diameter of the bag, and the bag must be tied securely and placed in a strong grain bag, which must in turn be tied securely and packed in the centre of a cask or barrel in good condition and of the kind used for shipment of alcohol. The grain bag must not contain more than 150 pounds dry weight of fulminate, and it must be surrounded on all sides by tightly packed sawdust not less than 6 inches thick. The cask or barrel must be lined with a heavy close-fitting jute bag closed by secure sewing to prevent escape of sawdust. After the barrel is properly coopered it must be filled with water, the bung sealed, and the barrel must be inspected carefully and all leaks stopped.

1592. *Marking.*—Each cask, or barrel, must be plainly marked ‘Wet Fulminate of Mercury—Dangerous.’

1593. *Car.*—A car containing fulminate in any quantity must be certified and placarded as prescribed by paragraphs 1661 and 1666.

*Group 6.—Ammunition.**Small-arms Ammunition.*

1601. *Packing.*—Small-arms ammunition must be packed in pasteboard or other boxes, and these pasteboard or other boxes must be packed in strong outside boxes.

Small-arms ammunition in pasteboard or other boxes, and in quantity not exceeding a gross weight of 75 pounds, may be packed with non-explosive and non-inflam-

1 GEORGE V., A. 1911

nable articles and with small-arms primers or percussion caps (see paragraph 1619), provided the shipment is certified (see paragraph 1668) and the outside package is marked as prescribed in paragraph 1602.

1602. *Marking*.—Each outside package or case must be plainly marked 'Small-arms Ammunition.'

1603. *Car*.—Small-arms ammunition may be shipped in any box car which is in good condition, without the placard prescribed by paragraph 1663.

Ammunition for Cannon.

1604. *Packing*.—Ammunition for cannon must be well packed and properly secured in strong boxes provided with cleats or handles.

1605. *Marking*.—Each outside package must be plainly marked 'Ammunition for Cannon—Explosive Projectiles' or 'Ammunition for Cannon—Empty Projectiles,' according as the projectiles, do, or do not, contain a bursting charge.

1606. *Car*.—A car containing ammunition for cannon with explosive projectiles must be certified and placarded as prescribed by paragraphs 1661 and 1666. This is not required when projectiles are empty, but in this case cars must be protected by 'Inflammable' placard, as prescribed by paragraph 1663.

Explosive Projectiles.

1607. *Packing*.—Explosive projectiles must be packed in strong boxes, and each projectile must be properly secured. When the gross weight does not exceed 150 pounds the box must be provided with cleats or handles.

1608. *Weight*.—The gross weight of a box containing more than one projectile must not exceed 150 pounds.

1609. *Marking*.—Each exterior package must be plainly marked 'Explosive Projectile' or 'Empty Projectile.' No restrictions other than proper marking are necessary for the shipment of empty projectiles.

1610. *Car*.—For explosive projectiles in any quantity the car must be certified and placarded as prescribed by paragraphs 1661 and 1666.

Blasting Caps.

1611. *Packing*.—Blasting caps contain such a sensitive and dangerous explosive that very efficient packing is necessary.

Blasting caps must be packed in strong tin receptacles in which they must fit snugly, and the caps must be closed securely by teats projecting from a plate of suitable elastic material placed inside the box and over the caps. Not more than 100 blasting caps must be packed in a single tin box. All separate tin boxes must then be packed snugly in paper or pasteboard cartons, and these must be packed in an inside box made of sound lumber not less than three-eighths of an inch in thickness (except in cases where it is made of hardwood with re-inforced corners, and the lid securely fastened down with at least four strong wires bound around the box, in which case the lumber must not be less than three-sixteenths of an inch in thickness). This inside wooden box must then be packed in an outside box made of sound lumber not less than one inch in thickness and free from loose knots and cracks. Tightly packed sawdust or excelsior, at least one inch thick at all points, must separate the inside from the outside wooden box. More than 20,000 blasting caps must not be placed in one outside package.

If the outside box is to contain not more than 5,000 caps, the inside box may be omitted, and the outside box may be made of half inch lumber; but in this case the tin boxes in pasteboard cartons must be separated from the outside box at all points by at least one inch of tightly packed sawdust or excelsior. One tin box containing not more than 100 caps may be packed with safety fuze. (Paragraph 1648.)

SESSIONAL PAPER No. 20c

Electric blasting caps must be packed in pasteboard cartons containing not more than 50 caps each. These cartons must be packed in a wooden box made of lumber not less than half inch in thickness.

All boxes containing more than 5,000 blasting caps or weighing more than 50 pounds, gross weight, must be provided with cleats and handles, and all lids must be securely fastened.

1612. *Weight*.—The gross weight of an outside package containing blasting caps or electric blasting caps must not exceed 150 pounds.

1613. *Marking*.—Each outside package must be plainly marked 'Blasting Caps—Handle Carefully' or 'Electric Blasting Caps—Handle Carefully.' In addition each box must bear the marking 'Do not store or load with any high explosive.'

1614. *Car*.—Certificate and placard as prescribed by paragraphs 1661 and 1666 are required for shipments of blasting caps in any quantity, except that a shipment of not more than 100 blasting caps may be transported in a box car in good condition without car certificate or placard.

Detonating Fuzes.

1615. *Packing*.—Detonating fuzes must be packed in strong tight boxes, provided with cleats or handles, and each fuze must be well secured.

1616. *Weight*.—The gross weight of one outside package must not exceed 150 pounds.

1617. *Marking*.—Each outside package must be plainly marked 'Detonating Fuzes—Handle Carefully.'

1618. *Car*.—A car containing detonating fuzes in any quantity must be certified and placarded as prescribed by paragraphs 1661 and 1666.

Primers, Percussion and Time Fuzes.

1619. *Packing*.—Primers, percussion and time fuzes must be packed in strong, tight boxes, with special provision for securing individual packages of primers and fuzes against movement in the box.

Small-arms primers, containing anvils, must be packed after December 31, 1909, in cellular packages with partitions separating the layers and columns of primers, so that the explosion of a portion of the primers in the completed shipping package will not cause the explosion of all of the primers.

Percussion caps may be packed in metal or other boxes containing not more than 500 caps, but the construction of the cap, and the kind and quantity of explosives in each, must be such that the explosion of a part of the caps in the completed shipping package will not cause the explosion of all of the caps.

Small-arms primers and percussion caps may form a part of the gross weight of 75 pounds of small-arms ammunition that may be packed with other articles as authorized by paragraph 1601.

1620. *Weight*.—The gross weight of one outside package must not exceed 150 pounds.

1621. *Marking*.—Each outside box must be plainly marked 'Small-arms Primers—Handle Carefully' or 'Percussion Caps—Handle Carefully' or 'Cannon Primers—Handle Carefully' or 'Combination Percussion—Handle Carefully' or 'Percussion Fuzes—Handle Carefully,' or 'Combination Fuzes—Handle Carefully,' &c.

1622. *Car*.—Primers, percussion and time fuses may be shipped in a box car which is in good condition, without the placard prescribed by paragraph 1663.

Group 7.—Fireworks.

Common Fireworks.

1641. *Packing*.—Common fireworks must be in a finished state, exclusive of mere ornamentation, as supplied to the retail trade, and must be securely packed in strong, tight, spark-proof boxes.

1 GEORGE V., A. 1911

1642. *Marking*.—Each outside package must be plainly marked 'Common Fireworks—Keep Fire Away.'

1643. *Car*.—Common fireworks may be shipped in a box car which is in good condition (paragraph 1663), but they must not be loaded in the same car with explosives or with inflammable articles (paragraph 1680).

A car containing any quantity of common fireworks must be protected by the 'Inflammable' placard. (See paragraph 1663.)

Special Fireworks.

1644. *Packing*.—Special fireworks must be in a finished state, exclusive of mere ornamentation, as supplied to the retail trade, and must not contain a blasting cap or detonator. (See paragraph 1501 *f.*) They must be securely packed in strong, tight, spark-proof boxes, that comply with general rules *D*, *E* and *F*, provided with cleats or handles.

1645. *Weight*.—The gross weight of one outside package containing special fireworks must not exceed 200 pounds.

1646. *Marking*.—Each outside package, if it contains special or a mixture of common and special fireworks, must be plainly marked 'Special Fireworks—Handle Carefully—Keep Fire Away.'

1647. *Car*.—Special fireworks may be shipped in any box car which is in good condition (paragraph 1663), but they must not be loaded in the same car with explosives or inflammable articles (paragraph 1680). A car containing any quantity of special or other fireworks must be protected by the 'Inflammable' placard (see paragraph 1663).

Safety Fuze and Safety Squibs.

1648. Safety fuze and safety squibs, when properly boxed or packed in barrels, may be accepted for shipment and loaded in any car with any other kind of an explosive or inflammable substance, or with other freight. If blasting caps are packed with safety fuze the outside package must be marked as prescribed by paragraph 1613. (See paragraph 1611.)

Section 111.—Selection and Preparation of Cars.

1661. The safe transportation of explosives depends very largely upon the kind and condition of the car in which they are loaded.

For the transportation of—

Black or brown powder,
High explosives,
Smokeless powder for small arms,
Fulminates,
Blasting caps,
Electric blasting caps,
Ammunition for cannon—explosive projectiles,
Explosive projectiles, or
Detonating fuzes,

only certified and placarded box cars may be used. (See paragraphs 1662 and 1666.)

1662. Certified cars must be inspected inside and outside, and must conform to the following specifications:—

(a) Not less than 60,000 pounds capacity. Steel underframe box cars or other cars with friction draft gear, should be used when available. On narrow-gauge and other railroads, all of whose freight cars are of less than 60,000 pounds capacity, explosives may be transported in cars of less than that capacity, provided the cars of greatest capacity and strength are used for this purpose.

(b) Must be equipped with air-brakes and hand-brakes in condition for service.

(c) Must have no loose boards or cracks in the roof, sides, or ends.

SESSIONAL PAPER No. 20c

(d) The doors must shut so closely that no sparks can get in at the joints, and, when necessary, they must be stripped. The stripping for flush doors should be on the inside and nailed to the door frame, where it will form a shoulder against which the closed door is pressed. The opening under the doors should be similarly closed.

(c) The journal boxes and trucks must be carefully examined and put in such condition as to reduce to a minimum the danger of hot boxes or other failure necessitating the setting off of the car before reaching destination. The lids or covers of journal boxes must be in place.

(f) The car must be carefully swept out before it is loaded. Holes in the floor or lining must be repaired, and special care taken to have no projecting nails or bolts or exposed pieces of metal which may work loose, or produce holes in packages of explosives during transit.

(g) When the car is to be fully loaded with explosives, or when explosives are loaded over exposed draft bolts or king-bolts, these bolts must have short pieces of solid, sound wood (2-inch plank) spiked to the floor over them to prevent possibility of their wearing into the packages of explosives.

(h) The roof of the car must be carefully inspected from the outside for decayed spots, especially under or near the running board, and such spots must be covered to prevent their holding fire from sparks. A car with a roof generally decayed, even if tight, must not be used.

(i) When explosives are to be carried in a 'way car' one should be selected with flush doors in good condition, or with doors fitting so tightly that stripping will not be necessary.

(k) The carrier must have car examined to see that it is properly prepared, and must have a 'car certificate' signed in triplicate upon the prescribed form (paragraph 1665) before permitting the car to be loaded.

(l) Cars not in proper condition, as above specified, must not be furnished to the shipper, or used for the transportation of explosives.

1663. Carload or less than carload lots of:—

Small-arms ammunition,
Primers,
Percussion fuses,
Time or combination fuses,
Ammunition for cannon—empty projectiles,
Smokeless powder for cannon, or
Fireworks,

may be loaded in any box car which is in good condition, into which sparks cannot enter, and whose roof is not in danger of taking fire through unprotected decayed wood. These cars may be used without being certified and placarded as prescribed by paragraphs 1661 and 1666; but cars containing—

Ammunition for cannon—empty projectiles,
Smokeless powder for cannon, or
Fireworks,

must be protected by the 'Inflammable' placard (see paragraph 1868), and the doors must be stripped when necessary.

PLACARDING OF CARS AND CERTIFICATION OF CONTENTS.

1664. Uniform practice is important, and the prescribed forms of car certificates and placards must be used.

1665. *Car Certificate*.—The following certificate (prescribed by paragraph 1662k), printed on strong tagboard measuring 7 by 7 inches, must be duly executed in triplicate by the carrier, and by the shipper if he loads the shipments. The original must

1 GEORGE V., A. 1911

be filed by the carrier at the forwarding station, and the other two must be attached to the outside of the car doors, one on each side, the lower edge of the certificate 4½ feet above the floor level.

CAR CERTIFICATE.

No. 1. Station,
.19....

I hereby certify that I have this day personally examined...
Car No... , and that the roof and sides have no loose boards, holes or cracks, or unprotected decayed spots liable to hold sparks and start a fire; that the king-bolts or draft-bolts are properly protected, and that there are no uncovered irons or nails projecting from the floor or sides of the car which might injure packages or explosives; also, that the floor is in good condition and has this day been cleanly swept before the car was loaded; that I have examined all the axle boxes, and that they are properly covered, packed, and oiled, and that the air brakes and hand brakes are in good condition for service.

.

No. 2. Station,
.19....

I hereby certify that I have this day personally examined the above car, that the floor is in good condition and has been cleanly swept, and that the roof and sides have no loose boards, holes, cracks, or unprotected decayed spots liable to hold sparks and start a fire; that the king-bolts and draft-bolts are protected, and that there are no uncovered irons or nails projecting from the floor or sides of the car which might injure packages of explosives; that the explosives in this car have been loaded and stayed, and that the car has been placarded according to paragraphs 1661, 1666 and 1674 to 1683, inclusive, of the regulations for the carriage of explosives prescribed by the Board of Railway Commissioners for Canada; that the doors fit so tightly or have been stripped so that sparks cannot get in at the joints or bottom.

.

.

NOTE.—Both certificates must be signed: certificate No. 1 by the representative of the carrier. For all shipments loaded by the shipper, he, or his authorized agent, and the representative of the carrier, must sign certificate No. 2. When the car is not loaded by shipper certificate No. 2 must be signed only by the representative of the carrier. A shipper should decline to use a car not in proper condition.

1666. *Placard*.—Each car containing any of the explosives specified in paragraph 1661, and in any quantities, must be protected by attaching to the outside of the car on both sides and ends, the lower edge 4½ feet above the car floor, a standard placard 12 by 14 inches, on which will appear in conspicuous red and black printing, on strong tagboard, the following notice:—

EXPLOSIVES

(To be printed in red).

HANDLE CAREFULLY.

KEEP FIRE AWAY.

(To be printed in red).

. Station,19....

SESSIONAL PAPER No. 20c

CONDENSED RULES FOR HANDLING THIS CAR.

1. This car must not be placed in a passenger or mixed train.
2. Cars containing explosives must be near the centre of train and may be together if desired; must be at least fifteen cars from engine and ten cars from caboose, when length of train will permit.
3. Cars containing explosives must be placed between box cars which are not loaded with inflammable articles, charcoal, cotton, acid, lumber, iron, pipe, or other articles liable to break through end of car from rough handling.
4. A steel underframe car containing explosives may be placed between steel hopper cars in train.
5. The air and hand brakes on this car must be in service.
6. In shifting have a car between this car and engine whenever possible, and do not cut this car off while in motion.
7. Avoid all shocks to this car and couple carefully.
8. Avoid placing it near a possible source of fire.
9. Engines on parallel track must not be allowed to stand opposite or near this car when it can be avoided.

1667. A car containing any of the explosives (as prescribed in paragraph 1661), must not be permitted to leave a station or siding without having the certificates and placard prescribed in paragraphs 1665 and 1666 securely and properly affixed.

1668. *Shippers' Certificate*.—Before any package containing one or more of the following articles:—

Black or brown powder, high explosives, smokeless powder for cannon, smokeless powder for small arms, small-arms ammunition, fulminates, ammunition for cannon—explosive projectiles, ammunition for cannon—empty projectiles, explosive projectiles, empty projectiles, detonating fuses, blasting caps, electric blasting caps, primers (naming kind), percussion fuses, time or combination fuses, common or special fireworks, safety fuse, or safety squibs,

can be accepted, the shipper must prepare and deliver to the carrier a shipping order on which each article is entered under its proper name, as specified in this paragraph; and over the signature of shipper or his duly authorized agent, must be printed, written, or stamped, and made part of the shipping order, the following certificate:—

This is to certify that the above articles are properly described by name, and are packed and marked and are in proper condition for transportation, according to the regulations prescribed by the Board of Railway Commissioners for Canada.

The carrier must see that the shipment is properly described, and that the correct gross weight is given on the revenue way-bill. The carrier must also cause to be written or stamped on the face of the card and revenue way-bill: 'Shippers' Certificate on File with Initial Carrier.'

The card way-bill, for a car containing any quantity of the explosives named in paragraph 1661, must also have plainly stamped across the top the word 'Explosives.'

1669. The carrier must see that the shipping order for explosives is kept at stations where the shipments originate on a separate file, together with all original car certificates that pertain to that station. The duplicate and triplicate car certificates taken from cars unloaded at any station may be destroyed if there are no violations of these regulations to report. (See paragraph G, general rules.)

SHIPMENTS FROM CONNECTING LINES.

1670. Cars containing explosives as specified in paragraph 1661 which are offered by connecting lines must be carefully inspected, without unnecessary disturbance of lading, by the receiving railway company to see that these regulations have been complied with, and the car must not be forwarded until all discovered violations are corrected.

1 GEORGE V., A. 1911

Shipments of explosives offered by connecting steamship lines must comply with these regulations, and revenue way-bill must bear the indorsements prescribed by paragraph 1668.

HANDLING OF EXPLOSIVES.

1671. In handling packages of explosives at stations and in cars the greatest care must be taken to prevent their falling or getting shocks. They must not be thrown, dropped, nor rolled.

1672. The carrier must choose careful men to handle explosives, see that the platform and the feet of the men are as free as possible from grit, and must take all possible precautions against fire. Unauthorized persons must not be allowed to have access to explosives at any time while they are in the custody of the carrier. Suitable provision must be made, outside of the station, when practicable, for the safe storage of explosives, and every effort possible must be made to reduce the time of this storage. Prompt removal by consignee must be enforced, to avoid unnecessary danger.

1673. Shipments of high explosives and powder should not be unloaded at a non-agency station unless the consignee is there to receive them, or unless satisfactory storage facilities are provided at that point for their protection.

LOADING IN CAR.

1674. Boxes of explosives when loaded in the car must rest on their bottoms. A car must not contain more than 70,000 pounds gross weight of explosives. This limit does not apply to shipments of ammunition.

1675. Explosives packed in round kegs, except when boxed, must be loaded on their side with heads towards ends of the car; and they must not be placed in the space opposite the doors unless the doorways are boarded on the inside as high as the lading.

Large casks, barrels, or drums may be loaded on their sides or ends as will best suit the conditions.

1676. Packages containing any of the explosives for the transportation of which a certified and placarded car is prescribed (paragraph 1661) must be stayed (blocked and braced) by whoever loads the car, to prevent change of position by the ordinary shocks incident to transportation. Special care must be used to prevent them from falling to the floor, or from having anything fall on them during transit. To prevent delays to way-freight trains, when there is more than one shipment of explosives loaded in a 'peddle' or 'way car,' each shipment should be stayed separately. If the staying is broken down to unload a shipment of explosives, the remaining packages must be restayed.

1677. Detonating fuzes or blasting caps, or electric blasting caps, must not be loaded in a car or stored with high explosives of any kind, including explosive projectiles, nor with wet nitro-cellulose, nor with smokeless powder for small arms.

1678. Fulminate in bulk must not be loaded with any explosive or inflammable article.

1679. When necessary, detonating fuzes may be assembled in explosive projectiles shipped by the Dominion government.

1680. Fireworks must not be loaded in the same car with any other explosive or inflammable substance, except small-arms ammunition, primers, percussion fuzes, time or combination fuzes, safety fuze and safety squibs.

1682. Inflammable substances, acids, matches, fireworks, drugs, chemicals, and cylinders containing compressed gases in liquid or gaseous state, whether protected by labels or not, must not be placed in a car containing explosives (except small-arms ammunition, primers, percussion fuzes, time or combination fuzes, safety fuze and safety squibs); nor must explosives be stored on railway property near these articles.

SESSIONAL PAPER No. 20c

When practicable, certain and separate days should be assigned for receiving from shippers less than carload lots of explosives.

1683. In a car containing explosives all packages of other freight must be so loaded and stayed as to prevent all injury of packages of explosives during transit. When it is possible, explosives should be loaded so as to avoid transfer stations.

At stations where it is necessary to handle explosives at night it is recommended that incandescent electric lights be provided.

HANDLING CARS CONTAINING EXPLOSIVES.

1684. Cars containing explosives must not be hauled in a passenger or mixed train. The phrase 'cars containing explosives' as used in this and subsequent paragraphs, excepting paragraph 1697, refers to the explosives specified in paragraph 1661.

1685. *Expediting Shipments of Explosives.*—Every possible effort must be made to expedite the movement of cars containing explosives.

1686. *In Through Road Trains.*—Cars containing explosives must be placed near the centre of the train, and two or more such cars may be placed together if desired. They must be at least fifteen (15) cars from the engine and ten (10) cars from the caboose when length of train will permit.

Such cars must be placed between box cars which are not loaded with inflammable articles, charcoal, cotton, acid, lumber, iron, pipe, or other articles liable to break through end of car from rough handling.

When explosives are loaded in steel underframe cars, such cars may be placed in train between steel hopper cars. All cars containing explosives must have air and hand brakes in service.

1687. *In Shifting and Local Freight Trains.*—Cars containing explosives must be coupled in the air service and placed as near the centre of the train as possible.

1688. *Handling in Yards.*—When handling cars containing explosives in yards or on sidings, they must, unless it is practically impossible, be coupled to the engine protected by a car between, and they must never be cut off while in motion.

They must be coupled carefully and all unnecessary shocks must be avoided. Other cars must not be allowed to strike a car containing explosives. They must be so placed in yards or on sidings that they will be subject to as little handling as possible, removed from all danger of fire, and, when avoidable, engines on parallel tracks must not be allowed to stand opposite or near them.

1689. Under no circumstances must a car known to require the 'Explosive placard' be taken from a station, including transfer stations, or a siding, unless it is properly carded as per paragraphs 1661 and 1666, nor unless the car is in proper condition.

1690. When a car containing explosives is in a train, the carrier must make a proper provision for notifying its train and engine employees of the presence and location of such car in the train before it leaves the initial station.

1691. Such cars must be frequently inspected to see that the carding is intact. Whenever any of these cards become detached or lost in transit they must be replaced on arrival at the next division terminal yard.

1692. Unless otherwise arranged for, when a car containing explosives is to be transferred, unloaded, or stored for any purpose, at a given junction, station, or yard, the carrier must provide for due notice to such station, by wire, of the probable time of arrival and the number of cars (not car numbers), in order that proper provision may be made at that point for handling the same.

1693. At points where trains stop, cars containing explosives and adjacent cars must be examined to see if they are in good condition and free from hot boxes or other defects liable to cause damage. If cars containing explosives are set out short of destination for any cause, the carrier must arrange that proper notice be given to prevent accident.

1 GEORGE V., A. 1911

1694. Whenever a car containing explosives is opened for any purpose, inspection must be made of the packages of explosives to see that they are properly stayed and in good condition, and that no box of dynamite is standing on its end or side. Upon the discovery of leaking dynamite or loose powder the defective packages must be carefully removed to a safe place. Loose powder or other explosives must be swept up and carefully removed. If the floor is wet with nitroglycerin, the car is unsafe to use, and the proper official should be immediately called to superintend the thorough mopping and washing of the floor with a warm, saturated solution of concentrated lye or sodium carbonate. If necessary, the car must be placed on an isolated siding and proper notice given. (See paragraphs 1534 and 1535.)

1695. The certificates and placards prescribed in paragraphs 1665 and 1666 must be removed from the car as soon as the explosives are unloaded.

1696. Carriers must see that all shippers of explosives in their territory are furnished with copies of these regulations.

IN CASE OF A WRECK.

1697. In case of a wreck involving a car containing explosives, the first and most important precaution is to prevent fire. Although most of the group, 'high explosives' may burn in small quantities quietly and without causing a disastrous explosion, yet everything possible must be done to keep fire away. Before beginning to clear a wreck in which a car containing explosives is involved, all unbroken packages should be removed to a place of safety, and as much of the broken packages as possible gathered up and likewise removed, and the rest saturated with water. Many explosives are readily fired by a blow, or by the spark produced when two pieces of metal or a piece of metal and a stone come violently together. In clearing a wreck, therefore, care must be taken not to strike fire with tools, and in using the crane or locomotive to tear the wreckage to pieces the possibility of producing sparks must be considered. With most explosives thorough wetting with water practically removes all danger of explosion by spark or blow; but with the dynamites, wetting does not make them safe from blows. With all explosives, mixing with wet earth renders them safer from either fire, spark or blow. In case 'fulminate' has been scattered by a wreck, after the wreck has been cleared the top surface of the ground should be removed, and, after saturating the area with oil, replaced by fresh earth. If this is not done, when the ground and fulminate become dry, small explosions may occur when the mixed material is trodden on or struck.

1868. A white placard, of diamond shape, printed on strong tagboard, measuring 15 inches on each diagonal, and bearing in red and black letters the following inscription: 'Inflammable—Keep Lights and Fires Away—Handle Carefully,' must be placed on each outside end and side of a car containing any quantity of smokeless powder for cannon, or ammunition for cannon with empty projectiles, or fireworks.

EXCEPTION.

Provided that explosives packed in conformity with the laws of the United Kingdom of Great Britain and Ireland relating thereto, and handled, loaded and carried by routes entirely within Canada, in accordance with the regulations herein prescribed, may be carried from the port of importation to the destination in Canada, or through Canada for furtherance to a foreign country other than the United States of America; or from the Canadian destinations aforesaid, or from the place of manufacture in Canada, for export in either case to a foreign country other than the United States of America.

SESSIONAL PAPER No. 20c

And it is further ordered that the regulations herein prescribed, except as otherwise indicated therein, shall come into force not later than the first day of November, 1909.

(Signed.) D'ARCY SCOTT,
Asst. Chief Commissioner,
Board of Railway Commissioners for Canada.

EQUIPMENT OF VANS WITH COUPLER-OPERATING LEVERS, AIR-GAUGES, AND AIR-CONTROLLING VALVES.

The question of equipment of freight vans with coupler-operating levers and of cupolas of cabooses with air-gauges and air-controlling valves was considered at Ottawa, on September 14, 1909, and after hearing counsel for some of the railway companies the following order was made:—

Upon the report and recommendation of an inspector of the Board; and upon the hearing of counsel for the Grand Trunk, the Canadian Pacific, the New York Central, the Michigan Central, and the Boston and Maine Railway Companies, and what was alleged at the hearing—

It is ordered that the railway companies subject to the legislative authority of the Parliament of Canada, operating railways by steam power, each equip before the first day of April, 1910, its freight vans with coupler-operating levers, and the cupolas of its cabooses with air-gauges and air-controlling valves.

And it is further ordered that every such railway company be liable to a penalty of a sum not exceeding twenty-five dollars for every failure to comply with the foregoing regulations within the time for their coming into force and thereafter.

(Signed) J. P. MABEE,
Chief Commissioner,
Board of Railway Commissioners for Canada.

RULES FOR WIRES CROSSING RAILWAYS.

The Board has had under consideration for some time the promulgation of a general order providing for standard conditions and specifications for wire crossings. On March 27, 1907, certain standard conditions and specification for telephone crossings had been approved. This latter order is now superseded by order No. 8392, dated October 7, 1909, which makes provision as well for all wire crossings including high tension wires. The following are the conditions and specifications:—

RULES FOR WIRES CROSSING RAILWAYS.

Notice to Applicants.—Send to the Secretary of the Board with the application, three copies of a drawing containing plan and *profile views of the crossing*. Also send proof that the railway company has been served with a copy of the application and drawing.

Make the drawing show:—

(a) The location of the poles or towers, or the location of the underground conduit in relation to the track; the dimensions of poles or towers; and the material or materials of which they are made.

(b) The proposed number of wires or cables, the distances between them and the track, and the method of attaching the conductors to the insulators.

(c) The location of all other wires to be crossed, and their supports.

(d) The maximum potential, in volts, between wires, the potential between the wires and the ground, and the maximum current, in amperes, to be transmitted.

1 GEORGE V., A. 1911

(e) The kinds and sizes of wires or conductors to be used at the crossing.

(f) On circuits of 10,000 volts, or over, the method of protecting the conductors from arcs at the insulators.

(g) The number of insulators supporting the conductors at the crossing. (See also 'j' in specifications.)

N.B.—Place a distinguishing name, number, date and signature upon the drawing. Mark the exact location of the proposed crossing upon the drawing, so that this crossing can readily be identified.

‘A.’

STANDARD CONDITIONS AND SPECIFICATIONS FOR WIRE CROSSINGS.

(Adopted and confirmed by Order of the Board No. 8392, dated October 7, 1909.)

PART I.—OVER-CROSSINGS.

Conditions.

1. The applicant shall, at its or his own expense, erect and place the lines, wires, cables, or conductors authorized to be constructed across the said railway, and shall at all times, at its own expense, maintain the same in good order and condition and at the height shown on the drawing, and in accordance with the specifications hereinafter set forth, so that at no time shall any damage be caused to the company owning, operating, or using the said railway, or to any person lawfully upon or using the same, and shall use all necessary and proper means to prevent any such lines, wires, cables, or conductors from sagging below the said height.

2. The applicant shall at all times wholly indemnify the company owning, operating, or using the said railway, of, from, and against all loss, cost, damage, and expense to which the said railway company may be put by reason of any damage or injury to person or property caused by any of the said wires or cables or any works or appliances herein provided for not being erected in all respects in compliance with the terms and provisions of this order, as well as any damage or injury resulting from the imprudence, neglect, or want of skill of the employees or agents of the applicant.

3. No work shall at any time be done under the authority of this order in such a manner as to obstruct, delay, or in any way interfere with the operation or safety of the trains or traffic of the said railway.

4. Where, in effecting any such crossing, it is necessary to erect poles between the tracks of the railway, the applicant, before any work in connection with such crossing it begun, shall give the railway company owning, operating, or using the said railway, at least seventy-two hours' prior notice thereof in writing, and the said railway company shall be entitled to appoint an inspector, under whose supervision such work shall be done, and whose wages, at a rate not to exceed three dollars per day, shall be paid by the applicant. When the applicant is a municipality and the crossing is on a highway under its jurisdiction, the wages of the inspector shall be paid by the railway company.

4a. It shall not, however, be necessary for the applicant to give prior notice in writing to the railway company as above provided in regard to necessary work to be done in connection with the repair or maintenance of the crossing, when such work becomes necessary through an unforeseen emergency.

5. Where wires or cables to be erected across the railway are to be carried above, below, or parallel with existing wires, at the crossing, either within the span to be constructed, across the railway or within the span next thereto on either side, such additional precautions shall be taken by the applicant as an engineer of the Board shall consider necessary.

6. Nothing in these conditions shall prejudice or detract from the right of the company owning, operating, or using the railway to adopt at any time the use of electric or other motive power, and to place and maintain over, upon, or under its right-

SESSIONAL PAPER No. 20c

of-way, such poles, lines, wires, cables, pipes, conduits, and other fixtures and appliances as may be necessary or proper for such purpose. Liability for the cost of any removal, change in location or construction of the poles, lines, wires, cables, or other fixtures or appliances erected by the applicant over or under the tracks of the said railway company, rendered necessary by any of the matters referred to in this paragraph shall be fixed by the Board on the application of any party interested.

7. Any disputes arising between the applicant and the said railway company as to the manner in which the said wires or cables are being erected, placed, maintained, used, or repaired, shall be referred to an engineer of the Board, whose decision shall be final.

8. The wires or cables of the applicant shall be erected, placed and maintained across the said railway in accordance with the drawing approved by the Board and the specification following. If the drawing and specifications differ, the latter shall govern unless a specific statement to the contrary appears in the order of the Board.

9. In every case in which the line of a railway company shall be constructed under the wires or cables of a telegraph or telephone company, the construction of the telegraph or telephone company shall be made to conform to the foregoing specifications, and any changes necessary to make it so conform shall be made by the telegraph or telephone company at the cost and expense of the railway company.

OVER-CROSSINGS.

Specifications.

A. *Labelling of Poles.*—Poles, towers, or other wire-supporting structures on each side of and adjacent to railway crossings, to be equipped with durable labels showing (a) the name of the company or individual owning or maintaining them, and (b) the maximum voltage between conductors; the characters upon the labels to be easily distinguished from the ground.

B. *Separate Lines.*—Two or more separate lines for the transmission of electrical energy shall not be erected or maintained in the same vertical plane. The word 'lines,' as here used, to mean the combination of conductors and the latter's supporting poles, or towers, and fittings.

C. *Location of Poles, &c.*—Poles, towers, or other wire-supporting structures to be located wherever possible a distance from the rail not less than equal to the length of the poles or structures used. Poles, towers, or other wire-supporting structures must under no consideration be placed less than 12 feet from the rail of a main line, or less than 6 feet from the rail of a siding. At loading sidings, sufficient space to be left for driveway.

D. *Setting and Strength of Poles.*—Poles less than 50 feet in length to be set not less than 6 feet and poles over 50 feet not less than 7 feet in solid ground. Poles with side strains to be reinforced with braces and guy wires. Poles to be at least 7 inches in diameter at the top. Mountain cedar poles to be at least 8 inches at the top. In soft ground poles must be set so as to obtain the same amount of rigidity as would be obtained by the above specifications for setting poles in solid ground. When the crossing is located in a section of the country where grass or other fires might burn them, wooden poles to be covered with a layer of some satisfactory fire-resisting material, such as concrete at least two inches thick, extending from the butt of the pole for a distance of at least 5 feet above the level of the ground. Wooden structures to have a safety factor of five.

E. *Setting and Strength of Other Structures.*—Towers or other structures to be firmly set upon stone, metal, concrete, or pile footings or foundations. Metal and concrete structures to have a safety factor of four.

F. *Length of Span.*—Span must be as short as possible consistent with the rules of setting and locating of poles and towers.

1 GEORGE V., A. 1911

G. *Fittings of Wooden Poles for Telegraph, Telephone, or Low Tension Lines.*—The poles at each side of a railway must be fitted with double cross-arms, dimensions not less than 3 inches by 4 inches, each equipped with $1\frac{1}{4}$ inch hardwood pins nailed in arms or some stronger support and with suitable insulators; cross-arms to be securely fastened to the pole in a girth by not less than a $\frac{5}{8}$ -inch machine bolt through the pole; arms carrying more than two wires or carrying a cable must be braced by two stiff iron or substantial wood braces fastened to the arms by $\frac{3}{8}$ -inch or larger carriage bolts, and to the pole by a $\frac{3}{8}$ -inch or larger bolt.

II. *Fittings of all Poles, Towers, or other Structures.*—All wire-supporting structures to be equipped with fittings satisfactory to an engineer of the Board.

I. *Guards.*—Where cross-arms are used, an iron hook guard to be placed on the ends of and securely bolted to each. The hooks shall be so placed as to engage the wire in the event of the latter's detachment from the insulators.

J. *Insulators.*—All wires or conductors for the transmission of electrical energy across a railway to be supported by and securely attached to suitable insulators.

Wires or conductors in 10,000-volt (or higher) circuits, to be supported by insulators capable of withstanding tests of two and one-half times the maximum voltage to be employed under operating conditions. An affidavit describing the tests to which the insulators have been subjected and the apparatus employed in the tests shall be supplied by the applicant. The tests upon which reports are required are as follows:—

Ja. *Puncture Test.*—The insulators having been immersed in water for a period of 7 days, immediately preceding and ending at the time of the test, to be subjected for a period of five minutes to a potential of two and one-half (2.5) times the maximum potential of the line upon which they are to be installed.

Jb. *Flash-over Test.*—State the potential that was employed to cause arcing or flashing across the surface of the insulator between the conductor and the insulator's point of support when the surface was (1) dry, and (2) wet.

K. *Height of Wires.*—(a) Low tension conductors.—The lowest conductor must not be less than 25 feet from top of rail for spans up to 145 feet; $2\frac{1}{2}$ feet additional clearance of rails or other wires must be given for every twenty feet or fraction thereof additional length of span. The words 'low tension,' as here used, to mean conductors for telegraph, telephone, and kindred signal work, as well as conductors connected with grounded secondary circuits of transformers.

Kb. All primary conductors, ungrounded secondaries and railway feeders to be maintained at least 30 feet above the top of rail, except where special provisions are made for trolley wires.

Kc. High tension conductors, those between which a potential of 10,000 volts or over is employed, to be maintained at least 35 feet above the top of rail.

L. *Clearances.*—Safe clearances between all conductors to be maintained at all times. The following distances to be provided wherever possible: at least 3 feet clearance between low tension wires; at least 5 feet between low tension wires, primaries, ungrounded secondaries, and railway feeders employing less than 10,000 volts; at least 10 feet between high tension wires and all other lines.

M. *Guy Wires.*—Guy wires at railway crossings to be at least as strong as 7 strand No. 16 Stub's or New British standard gauge galvanized steel wire, and to be clearly indicated as guy wire on the drawing accompanying the application. One or more strain insulators to be placed in all guy wires; the lowest strain insulator to be not less than 8 feet above the ground.

N. *Wires and other Conductors.*—(a) Where open telephone, telegraph, signal or kindred low tension wires are strung across a railway this stretch to consist of copper wire not less than No. 13 New British standard gauge, .092 inch in diameter. Wire to be tied to insulators by a soft copper tie-wire, not less than 20 inches in length and of the same diameter as line wire.

SESSIONAL PAPER No. 20c

Nb. Where No. 9 B.W.G. or larger, galvanized iron wire is employed in a circuit, and where there is no danger of deterioration from smoke or other gases, the use of this wire may be continued at the crossing.

Nc. Where a number of rubber covered wires are strung across a railway, they may be made up into a cable by being twisted on each other or sewn with marline, which must be tied every three inches, and the whole securely fastened to the poles by marline.

Nd. Wires or conductors for the transmission of electrical energy for purposes other than telegraph, telephone, or kindred low tension signal work, to be composed of at least 7 strands of material having a combined tensile strength equivalent to or greater than No. 4 Brown & Sharpe gauge hard drawn copper wire. These conductors to be maintained above low tension wires at the crossing, to be free from joints or splices, and to extend at least one full span of line beyond the poles or towers at each side of the railway.

Ne. Wires or conductors subjected to potentials of 10,000 volts or over, to be reinforced by clamps, servings, wrappings, or other protection at the insulators to the satisfaction of an engineer of the Board.

Nf. Conductors for other than low tension work to have a factor of safety of 2 when covered with ice or sleet to a depth of 1 inch and subjected to a wind pressure of 100 miles per hour.

O. *Positions of Wires.*—Wires or conductors of low potential to be erected and maintained *below* those of higher potential which may be attached to the same poles or towers.

P. *Trolley Wires.*—Trolley wires at railway crossings to be provided with a trolley guard so arranged as to keep the trolley wheel or other running, sliding or scraping device in electrical contact with them. The trolley wire, trolley guard, and their supports to be maintained at least 22 feet 6 inches above the top of the rails.

Q. *Cable.*—Cable to be carried on a suspension wire at least equivalent to 7 strands of No. 13 Stub's or New British standard gauge galvanized steel wire. When cross-arms are used, suspension wire to be attached to a $\frac{3}{4}$ -inch iron or stronger hook, or when fastened to poles to a malleable iron or stronger messenger hanger bolted through the poles, the cable to be attached to the suspension wire by cable clips not more than 20 inches apart. Rubber insulated cables of less than $\frac{3}{4}$ -inch in diameter may be carried on a suspension wire of not less than 7 strands of No. 16 Stub's or New British standard gauge galvanized steel wire. The word 'cable,' as here used, to mean a number of insulated conductors covered or bound together.

PART II.—UNDER-CROSSINGS.

Conditions.

1. The line or lines, wire or wires, shall be carried across the railway in accordance with the approved drawing, and a pipe or pipes, conduit or conduits, shall, for the whole width of the right-of-way adjoining the highway, be laid at the depth called for by, and shall be constructed and maintained in accordance with, the specifications hereinafter set forth.

2. All work in connection with the laying and maintaining of each pipe or conduit, and the continued supervision of the same, shall be performed by, and all costs and expenses thereby incurred be borne and paid by the applicant; but no work shall at any time be done in such manner as to obstruct, delay, or in any way interfere with the operation or safety of the trains, traffic, or other work on the said railway.

3. The applicant shall at all times maintain each pipe or conduit in good order and condition, so that at no time shall any damage be caused to the property of the railway company, or any of its tracks be obstructed, or the usefulness or safety of the same for railway purposes be impaired, or the full use and enjoyment thereof by the said railway company be in any way interfered with.

1 GEORGE V., A. 1911

4. Before any work of laying, removing, or repairing any pipe or conduit is begun, the applicant shall give to the railway company at least seventy-two hours prior notice thereof, in writing, accompanied by a plan and profile of the part of the railway to be affected, showing the proposed location of such pipe or conduit and works contemplated in connection therewith, and the said railway company shall be entitled to appoint an inspector to see that the applicant, in performing said work, complies, in all respects, with the terms and conditions of this order, and whose wages, at a rate not exceeding \$3 per day, shall be paid by the applicant. When the applicant is a municipality and the crossing is on a highway under its jurisdiction the wages of the inspector shall be paid by the railway company.

4a. It shall not, however, be necessary for the applicant to give prior notice in writing to the railway company, as above provided, in regard to necessary work to be done in connection with the repair or maintenance of the crossing when such work becomes necessary through an unforeseen emergency.

5. The applicant shall, at all times, wholly indemnify the company owning, operating, or using the said railway of, from, and against all loss, costs, damage, and expense to which the said railway company may be put by reason of any damage or injury to person or property caused by any pipe or conduit, or any works or appliances herein, or in the order authorizing the work provided for, not being laid and constructed in all respects in compliance with the terms and provisions of these conditions, or if, when so constructed and laid, not being at all times maintained and kept in good order and condition and in accordance with the terms and provisions of said order, or any order or orders of the Board in relation thereto, as well as any damage or injury resulting from the imprudence, neglect, or want of skill of any of the employees or agents of the applicant.

6. Nothing in these conditions shall prejudice or detract from the right of any company owning, or operating or using the said railway to adopt, at any times, the use of electric or other motive power, and to place and maintain upon, over and under the said right-of-way such poles, wires, pipes and other fixtures and appliances as may be necessary or proper for such purposes. Liability of the cost of any removal, change in location or construction of the pipes, conduits, wires, or cables constructed or laid by the applicant rendered necessary by any of the matters referred to in this paragraph, shall be fixed by the Board on the application of the party interested.

7. Any dispute arising between the applicant and the company owning, using, or operating said railway as to the manner in which any pipe or conduit, or any works or appliances herein provided for, are being laid, maintained, renewed, or repaired, shall be referred to the Engineer of the Board, whose decision shall be final and binding. Appendix 'C,' page 199.

UNDER-CROSSINGS.

Specifications.

A.A. Conduit.—Vitrified clay, creosoted wood, metal pipe, or fibre conduit may be used.

B.B. Depth.—The excavation to be of sufficient depth to allow the top of the duct to be at least 3 feet below the bottom of the ties of the railway track.

C.C. Laying.—The conduit or duct to be laid on a base of 3 inches of concrete, mixed in proportion, 1 of cement, 3 of sand and 5 of broken stone or gravel. Where stone is used, such stone to be of a size that will permit of its passing through a 1-inch ring. After ducts are laid, the whole to be encased to a thickness of 3 inches on top and sides in concrete mixed in the same proportions as above.

Where the track is on an embankment a pipe may be driven through the latter.

SESSIONAL PAPER No. 20c

D.D. Filling In.—The excavation must be filled in slowly and well tamped on top and side.

E.E. Guard.—The excavation must at all times be safely protected by the applicant.

Approved,

(Sgd.) J. P. MABEE,
Chief Commissioner.

October 7, 1909.

WEIGHING OF COAL AT PORT OF ENTRY.

This is a matter that first came up at Toronto on January 10, 1908, in connection with an application of the Retail Coal Dealers' Association, for an order under the provisions of section 26, chap. 37, dealing with the receiving of coal from shippers, the weighing of coal at the port of entry, the weighing of cars uncoupled, the weighing at the nearest scale to destination, the weighing as soon as unloaded, the collection of freight only on tonnage reaching destination, the monthly settlement of shortage, and some other matters enumerated in the application, and after a lengthy hearing stood adjourned until a sittings held in Ottawa on January 12, 1909. A further hearing was had in Toronto, on May 31, 1909, and the following order was issued on November 22, 1909.

Upon the hearing of evidence and counsel for the applicants and the railway companies, it is ordered as follows:—

1. In the event of the consignee of any car or cars of bituminous coal shipped from the United States for final delivery at a point in Ontario, desiring to have such car or cars weighed at the port of entry, he shall be at liberty to give a written notice to the local agent of the railway company receiving such car or cars at such port of entry for delivery or furtherance, that he wishes to have any or all the cars weighed, such notice to be given before the coal is received by such railway companies; and upon the receipt of such notice, it shall be the duty of the company to weigh, free of charge, at such port of entry, all cars covered by the notice.

2. Any consignee may give a general or continuing written notice that he wishes to have such cars consigned to him weighed as above provided.

3. For the purposes of such weighing at the port of entry, the cars to be weighed may remain coupled one to another in a train.

4. The weighing of coal at the port of entry, under the provisions of this order, shall be under the supervision and control of a government weighmaster, to be appointed or named by the Minister of Customs, whose duty it shall be to prepare in triplicate a certificate of the weight of the coal in each car weighed.

5. The government weighmaster shall deliver one of the originals of such certificate to the railway company, if desired; attach another to the weigh-bill, or send it by mail to the consignee; and preserve the third in his possession for further reference if required.

6. In case of dispute between the railway company and the consignee as to the weight of coal in cars weighed as hereinbefore provided, the certificate of the weight of such coal by the government weighmaster shall be binding upon the railway company.

7. It shall be the duty of the local agent of the railway company at such port of entry, to notify the government weighmaster of the probable hour of arrival from day to day of all cars of coal required to be weighed, in sufficient time to enable the said weighmaster to supervise and control the weighing of such coal without unduly delaying the said cars in transit.

1 GEORGE V., A. 1911

8. If the railway company has established weigh scales at the point of destination of such coal, the company shall there weigh such car or cars as may be specified in a written notice delivered by the consignee to the agent of the railway company at such point of destination, within twenty-four hours after the arrival of the coal.

9. If the railway company has not established weigh scales at the point of destination of such coal, the company shall, at the weigh scale point nearest to such point of destination in the direct route, weigh such car or cars as may be specified in a written notice delivered by the consignee to the agent of the railway company at such point of destination, a reasonable time before such car or cars shall have reached the said weigh scale point.

10. For the services required to be performed by the railway company under clauses 8 and 9 hereof, the railway company may charge and collect from the consignee five cents for every ton of coal in the car, with a minimum of one dollar and a maximum of two dollars per carload; but no charge shall be made and no amount collected for such service, if the weight of the coal be more than 500 pounds less than the weight of the coal at the port of entry, or if, the coal not having been weighed at the port of entry, the weight be more than 500 pounds less than the weight shown by the weigh-bill to be in the car at the time of shipment, plus the weight of the car itself as shown by the tare.

11. On notice in writing that he wishes to have the empty car weighed being given by the consignee of any such coal to the agent at the point of destination of the railway company hauling the same to such point (if a weigh-scale point) within five hours from the unloading of any car containing such coal, the company shall weigh the car at such point, and for such service may charge and collect from the consignee one dollar per car; but no such charge shall be made and no amount be collected for such service if the actual weight of the car exceeds the tare marked on it by more than 500 pounds.

12. This order shall apply only to ports of entry and points of delivery in the province of Ontario.

13. Any person or company affected by this order may, after one year from the date hereof, apply to the Board to vary or rescind it.

And it is further ordered that the order of the Board, No. 7261, dated May 31, 1909, be, and it is hereby rescinded.

(Signed) J. P. MABEE,
Chief Commissioner,

Board of Railway Commissioners for Canada.

For reason for the order see judgment of Assistant Chief Commissioner Scott in Appendix 'C.'

CAR DOORS FOR GRAIN AND OTHER CARS.

This matter originally came up for consideration upon the complaint of J. J. Denman, and others of the province of Alberta, complaining of unjust treatment afforded to them by the Canadian Northern and Canadian Pacific Railway Companies in compelling the complainants to furnish doors or boards for the interior of cars supplied to them for shipments of coal. The Grain Growers' Grain Association of Winnipeg also alleged long delay on the part of the railway companies in repayment to shippers of grain for lumber supplied for car doors. In connection with these complaints an order was made in the case of the Grain Growers' Grain Association on February 2, 1909, order 6188, directing that all railway companies subject to the jurisdiction of the Board in the provinces of Manitoba, Saskatchewan, and Alberta, furnish car doors to be used for traffic and that allowances should be made therefor, as therein set forth. Also an order in the Denman complaint, order 6701, dated

SESSIONAL PAPER No. 20c

February 19, 1909, on similar terms. Subsequently a further hearing was had in Ottawa on November 16, 1909, and a draft order was prepared under direction of the Chief Commissioner and submitted to all the interested parties, and on December 10, 1909, order 8860 was issued finally dealing with the matter. The following is the order:—

Upon hearing the above complaints in the presence of counsel for the applicants, in so far as the former orders hereinafter referred to are concerned, as well as of counsel for the Canadian Pacific Railway Company, the Canadian Northern Railway Company, and the Grand Trunk Pacific Railway Company; and upon counsel representing that serious difficulty is likely to arise in connection with the operation of the orders in these matters, made on the 2nd day of February, 1909, and on the 19th day of February, 1909, in so far as they direct at the time of shipment payment to the shipper out of funds of the railway company in the hands of its agents, it is ordered:—

1. That the said orders of the 2nd day of February, 1909, and the 19th day of February, 1909, be, and the same are hereby rescinded.

2. It is further ordered that where shippers upon all or any railways subject to the jurisdiction of the parliament of Canada, are compelled to furnish car doors to enable cars to be used for traffic, allowance therefore to such shippers be made upon the following basis:—

(a) At and west of Fort William, lower car door, \$1; upper car door, 50c.

(b) East of Fort William, upper or lower car door, each, 50c.

And that adjustment between the said shipper and the railway company shall be made by the agent of the railway company at or nearest to the point of shipment, by permitting the shipper to deduct from the freight charges, if any, payable by him upon the shipment in such car for which the said door or doors were so supplied, the amount of such bill upon the foregoing basis, the said shipper receipting the same for the amount so allowed and turning the account in to such agent as so much cash.

3. In the event of the shipper not prepaying the freight upon the shipment with reference to which such car door or doors are so furnished, then the railway company shall, within thirty days from the date of such shipment, reimburse to the shipper the sums payable upon the above basis for the door or doors so furnished by him.

(Signed) J. P. MABEE,

Chief Commissioner,

Board of Railway Commissioners for Canada.

GENERAL CONCURRENCE NOTICES TO COVER JOINT TARIFFS ISSUED BY CANADIAN RAILWAYS.

Considerable difficulty having been experienced with respect to certificates of concurrence in joint tariffs, the following general order was made on December 11, 1909.

Where a notice of concurrence in joint tariffs are not required by sections 335 and 336 of the Railway Act relating to international traffic, traffic from Canada through a foreign country into Canada, and from a foreign country through Canada into a foreign country;

And whereas the Railway Act, section 333, provides 'that where traffic is to pass over any continuous route *in Canada* operated by two or more companies, the several companies may agree upon a joint tariff for such continuous route, and the initial company shall file such joint tariff with the Board, and the other company or companies shall promptly notify the Board of its or their assent to and concurrence in such joint tariff—

It is ordered that the following form of certificate shall be used in notifying the Board of assent to and concurrence in a joint tariff, or in a supplement thereto, appli-

1 GEORGE V., A. 1911

cable between points in Canada, that has been published and filed by another company and to which the company giving assent and concurrence has been made a party, the certificate to be used for one schedule only, to be printed on paper eight inches wide by eleven inches long, and to be mailed to the Chief Traffic Officer of the Board:—

(Name of concurring company in full.)
. Department.
No. C.C. (from 1 progressively). (Place and date.)

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

This is to certify that the (name of concurring company in full) assents to and concurs in the publication and filing of the joint tariff (or joint supplement) described below, and hereby makes itself a party thereto and bound thereby.

(Full title and C.R.C. No. of schedule concurred in.)

Date effective.
Issued by. (Company).

This certificate to be signed with the name and title of the official of the concurring company appointed by by-law of the company to prepare and issue tariffs, or by some person duly authorized to sign for him, such person to affix his name in full and his name and authority for the purposes of this order to be communicated to the Board.

And it is further ordered that in lieu of the individual certificate hereinbefore prescribed, the Board is prepared to receive a general certificate of concurrence in the following form, in all joint tariffs and supplements thereto, applicable between points in Canada, that have been published and filed by other companies named therein, and to which the company giving assent and concurrence has been made a party; the certificate to be mailed to the Chief Traffic Officer of the Board:—

(Name of concurring company in full.)
. Department.
No. G.C. (from 1 progressively). (Place and date.)

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

This is to certify that the (name of concurring company in full) assents to and concurs in all joint tariffs and supplements thereto, that may hereafter published and filed by the (name of company in full) in which this company is named as a party thereto, in so far as such schedule contains rates which apply within Canada, to or via (not from) this company's points.

This certificate to be signed in person by the official of the concurring company appointed by by-law of the company to prepare and issue tariffs.

And it is further ordered:—

- 1. That the company which prepares and issues the joint tariff shall, against the name of each of the other concurring companies, show in small type the 'C.C.' or 'G.C.' number, as the case may be, of the certificate of concurrence of such company in such joint tariff.
- 2. That two copies of all certificates of concurrence shall be filed with the Board, one marked 'duplicate,' which will be stamped with the date of receipt by the Board and returned to the sender.

And it is further ordered:—

- 1. That under section 323 of the Railway Act, the only procedure in the case of objection to any joint tariff shall be by formal application by the objecting company to the Board for an order disallowing the said tariff.

SESSIONAL PAPER No. 20c

2. That the circular *re* concurrence certificate issued by the Board on September 16, 1904, and February 16, 1905, are hereby rescinded.

3. That this order shall come into effect on February 1, 1910.

(Signed.) D'ARCY SCOTT,
Asst. Chief Commissioner,
Board of Railway Commissioners for Canada.

FLAG STATIONS.

Complaint regarding this matter was first made by the Winnipeg Jobbers' and Shippers' Association, which asked that the railway companies be ordered:—

1. Where the traffic warrants it, to erect a freight shed and appoint a permanent agent in charge of the business at that station.

2. Not to reduce any regular station with an agent in charge to flag station without an agent.

3. Not to close any regular or flag station without the approval of the Board.

The railway companies took exception to the jurisdiction of the Board to deal with these matters. Judgment upholding jurisdiction was given by the Chief Commissioner (for which judgment see Appendix 'G'), and the following order was made on January 6, 1910.

In the matter of the complaint of the Winnipeg Jobbers' and Shippers' Association, complaining of the unsatisfactory service rendered by railway companies in connection with shipments of freight to flag stations; and applying for an order directing the railway companies, where the traffic warrants, to appoint permanent agents to take charge of the business at such stations. (File 4205—871.)

Upon reading what has been alleged in support of the application and on behalf of the railway companies; and upon hearing the application at the sittings of the Board held in Winnipeg on February 4, 1909, in the presence of counsel for the complainants' association, the Winnipeg Board of Trade, the Canadian Pacific, the Canadian Northern, and the Grand Trunk Pacific Railway Companies, and what was alleged by counsel aforesaid, the evidence offered; and upon the report of the Chief Traffic Officer of the Board, it is ordered:—

1. That all railway companies subject to the jurisdiction of the Board, within six months from the date of this order, do construct and maintain, upon their lines of railway, in Manitoba, Saskatchewan and Alberta, at stations (other than regular agency stations) from or to which freight (L.C.L.) and passenger traffic is carried, suitable shelters or waiting room for the accommodation of freight and passengers, the said shelters to be provided with proper doors and windows and not to be below the standard of the plans and specifications attached, No. 1 ('A' or 'B,' as may be decided upon).

2. That appurtenant to the said shelters and at proper and convenient locations, shall be erected within the time aforesaid, proper and convenient platforms and approaches.

3. All freight traffic delivered to such points shall be placed in the said shelter, and the carrier shall not be relieved from liability under the release approved by order No. 6242, unless this direction is complied with.

4. That at all stations or shipping places upon the said lines of railway, from or to which the total freight and passenger earnings of the company for the last fiscal year, or where the average earnings for the last three fiscal years, amounts to not less than \$15,000, of which \$2,000 shall represent inward traffic, the said railway companies shall forthwith construct and equip suitable and proper stations, not to be below the standard of plans and specifications attached, No. 2, and shall likewise forthwith appoint and continue a permanent agent at such point or points.

1 GEORGE V., A. 1911

5. That at all non-agency points where the business of the company consists solely or principally of grain shipments and the same amounts to at least 50,000 bushels for the previous year, temporary grain agents shall be appointed and continued during the grain shipping season, being from September 15 to December 31 in each year.

(Signed) J. P. MABEE,
Chief Commissioner,
Board of Railway Commissioners for Canada.

GENERAL REGULATIONS AFFECTING HIGHWAY CROSSINGS.

Regulations regarding farm crossings dealing with:—

1. The width of gates in fences inclosing the right-of-way;
2. The width of approaches over ditches to the railway tracks;
3. The width of filling by planks or other material between the rails;

have been considered and after a thorough investigation into the matter, the following order was issued, a copy of which was sent to the railway companies and to the secretaries of the various boards of trade throughout the Dominion and other interested parties.

It is declared that until further order of the Board, the following regulations for the future construction of farm crossings by railway companies, subject to the legislative authority of the Parliament of Canada, be, and they are hereby, adopted by the Board as 'Standard Regulations regarding Farm Crossings.'

1. *Gates.*—Farm crossing gates shall be of such a width as to give a clear space between the posts of not less than—

(a) *Sixteen feet* in the provinces of Manitoba, Saskatchewan, Alberta, and British Columbia.

(b) *Fifteen feet* in the province of Ontario.

(c) *Fourteen feet* in Quebec and the maritime provinces.

2. *Planking and Approaches to Crossing.*—The planking or other approved filling between the steel rails, and for a width of at least eight inches on the outer sides thereof, and the roadways between the gates and the track or tracks, shall each furnish a road surface of not less than:—

(a) *Fourteen feet* wide in the provinces of Manitoba, Saskatchewan, Alberta and British Columbia.

(b) *Twelve feet* wide in the other provinces of the Dominion.

3. For any cut or fill up to five feet, the grade shall not be steeper than ten per cent; and for each foot, or fraction exceeding one-half foot, of cut or fill in excess of five feet, the percentage of grade shall (except where, and to the extent that, the slope of the ground makes it impossible) be decreased by one-half of one per cent until a depth or height of eleven feet is reached.

4. When a cut or fill at any farm crossing exceeds eleven feet, the matter shall be referred to the Board to decide as to the advisability of requiring the railway company to construct a bridge or under-crossing, unless the company, in consultation with the owner of the farm affected, voluntarily constructs a suitable bridge or under-crossing. The width of bridges and under-crossings to be the same as the width of the gates in the different provinces, and the height of under-crossings to be determined by the requirements in each case.

5. In special cases, it may, upon application, be ordered that any existing farm crossing be reconstructed to conform to the foregoing standards.

(Signed) J. P. MABEE,
Chief Commissioner,
Board of Railway Commissioners for Canada.

SESSIONAL PAPER No. 20c

COMPLAINT OF THE WESTERN ASSOCIATED PRESS.

This was an application made by the Western Associated Press of the city of Winnipeg, Man., in which an order was asked under section 323 and other sections of the Railway Act directing the Canadian Pacific Railway Telegraph Company and the Great Northwestern Telegraph Company of Canada to charge press rates for press matter, whether delivered to a newspaper or to the Western Associated Press, and further directing the Canadian Pacific Telegraph Company to carry telegraphic news supplied by other news gathering agencies at the same rate charged by the said telegraph company.

The complaint first came before the Board for consideration at a sitting held in Winnipeg on November 15, 1909. Judgment was delivered on January 1, 1910 (see appendix), and pursuant thereto an order was made refusing the application for an order directing the respondent companies to furnish to the applicants telegraphic matter at the tolls or rates established by them for delivery to and publication in one newspaper. The order further declared that the flat rate contracts to newspapers disclosed in the evidence were in violation of the tariff clauses of the Railway Act as applicable to telegraph companies, and were discriminatory and were therefore prohibited. Also that the tariffs of tolls covering all this class of telegraphic service be filed with the Board not later than February 1, 1910. The said tariff to be so framed as not to work discrimination against the applicant or any person or association engaged in like work.

Subsequently a declaratory order was issued on February 25, 1910, to the effect that the order of January 8, 1910, applied only to telegraphic matter delivered by the respondent companies at points west of and including Port Arthur, Ont., and that the tariffs of tolls required by the said order of January 8, 1910, to be filed with the Board are the tariffs for the said telegraphic matter.

On March 8, 1910, the following circular letter was forwarded to all the telegraph companies, to the Western Associated Press, Winnipeg, and to other interested parties:—

March 8, 1910,

File 12002, *re* Press Rates.

DEAR SIR,—The telegraph companies have filed tariffs pursuant to the order made in connection with the Western Press Association case, and the Board having been requested to grant all parties interested a hearing before these rates become effective, hereby fixes Monday, the 21st day of March, instant, at Ottawa, at 10 a.m., to hear all concerned in these rates.

At the said time and place the eastern publishers will be required to show cause why the principle of the Board's judgment should not apply to eastern as well as to western points.

As these tariffs require the affirmative approval of the Board before becoming effective, it is particularly desirable that all concerned be prepared to present all that can be said upon the matter.

Yours truly,

(Signed) A. D. CARTWRIGHT,
Secretary, B. R. C.

In accordance with the above notice this matter was heard at a sitting in Ottawa on March 21, 1910, in the presence of counsel for the applicant and the telegraph companies interested, and an order was made (order 10010) directing the Canadian Pacific Railway Telegraph Company, the Great Northwestern Telegraph Company, and the Canadian Northern Railway Telegraph Company to file, not later than April 12, 1910, tariffs of tolls covering telegraphic service to newspapers, and that the said tariffs be so framed as not to work discrimination against the applicant or any person or association engaged in like work.

MONTREAL STREET RAILWAY CASE.

The construction placed by the Supreme Court upon subsection 'B' of section 8 of the Railway Act must be considered by Parliament if 'through traffic' upon railways that have not been declared to be for the general advantage of Canada is to be controlled through the medium of a federal tribunal.

The city of Montreal applied to the Board for redress of certain grievances alleged against the Montreal Park and Island Railway Company. This is an electric road under federal jurisdiction operated on the streets of Montreal. It appeared at the hearing that it was physically connected with the tracks of the Montreal Street railway, an electric road not under federal jurisdiction; that cars of the Park and Island road run over an intermediate portion of the tracks of the Montreal Street railway and thence to its own tracks. It appeared that the Montreal Street railway was a necessary party, and the Board made an order adding that company a party to the proceeding, and required it to appear and show cause why it should not join in through rates and through routes with the Park and Island Railway Company and file tariffs, pursuant to the requirements of section 233 of the Railway Act.

At the next meeting of the Board, counsel for the Street railway objected to the Board's jurisdiction upon the ground that it was a local railway with a provincial charter and had not been declared to be a railway for the general advantage of Canada. It was contended that the words 'through traffic' in the above section meant 'through traffic from a railway outside of the province of Quebec entering into the province of Quebec and connecting with a local railway in that province.'

After a lengthy hearing the following oral judgment was delivered by the Chief Commissioner:—

Hon. Mr. MABEE.—'This matter, as everybody has stated, is a complicated one. But perhaps we know as much about it now as we ever will, and we might as well dispose of it at once according to our lights. This discussion has covered somewhat wider range than was necessary, but perhaps the information that has been given may be useful somewhere else. Mr. Meredith has raised an interesting and perhaps a difficult question with regard to the construction of the British North America Act. He has raised a question as to the power conferred upon the federal Parliament under the British North America Act, and which affects the authority of Parliament to delegate control to this Board.

'As I have already indicated, if this is a question of law, then leave may be granted to appeal under the provisions of the Railway Act. If it is a question of jurisdiction, the application will have to be made to a judge of the Supreme Court as provided for by the Act. Therefore, although we shall make a formal order now, the order will not go into force if an appeal is launched by the Montreal Park and Island or by the Montreal Street railway or both of them, nor will it go into force until a reasonable time has elapsed, if they may be advised that it is proper for them to make application to a judge of the Supreme Court for leave to appeal.

'Respecting the question raised in the case, it seems to us to be sufficient to say that we are of the opinion that with respect to 'through traffic,' and in the words of the Act 'all matters pertaining thereto,' the Montreal Street railway is in that limited way under the jurisdiction of this tribunal. Agreements are on foot between these two companies. They have made traffic arrangements between themselves; these are domestic matters with which neither the public nor this Board have any concern whatever, unless they are of such a character that the public interests are affected. It seems that the Montreal Park and Island railway is able to make whatever arrangements with the Montreal Street Railway Company it deems necessary in order to carry the people of these outlying districts into and out of the city of Montreal. There is an entirely different agreement on foot, apparently, between these two cor-

SESSIONAL PAPER No. 20c

porations with respect to traffic moving from Mount Royal ward into the heart of the city and from the city back to Mount Royal ward than there is respecting the traffic moving from Notre Dame de Grace into the city and from the city back.

‘It is said that there is this difference in treatment because certain franchises and other privileges were given by the municipality of Notre Dame de Grace to the Montreal Park and Island railway that were not given to the railway by the municipality of Mount Royal ward when it was a separate municipality. It seems to us that this difference in treatment is prohibited by the Railway Act unless the railway company is able to satisfy the Board that it is treatment which does not amount to undue preference or undue discrimination. The Railway Act has application just as much to the Montreal Park and Island railway, or any other railway in the Dominion of Canada. The Montreal Park and Island railway has a federal charter and the law applies with respect to unfair treatment or unjust discrimination or excessive tolls, and the various other phases of railway operation, to this corporation operating this electric road in and in the vicinity of Montreal, as it does to any other federal railway in the Dominion of Canada.

‘Now, if a steam railway were found charging the people of one township or one county entirely different tolls for traffic, than they were charging to the people in another township or in another county, they would have very great difficulty, it seems to me, in satisfying any tribunal or any fair-minded man, that that was not an unjust and unfair discrimination against the people who suffered from this practice. The Montreal Park and Island Railway falls under section 77 of the Railway Act. It has been proved that different practices exist with respect to the traffic moving to and from Mount Royal ward, than, with respect to the traffic moving to and from adjacent wards, and section 77 provides:—

‘Whenever it is shown that any company charges one person, company, class of persons, or the persons in any district, lower tolls for the same and similar goods, or lower tolls for the same or similar service, than it charges to any other companies, persons, or classes of persons, or to the persons in another district, or makes any difference in treatment in respect of such companies or persons, the burden of proving that such lower toll or difference in treatment, does not amount to an undue preference or an unjust discrimination, shall lie on the company.

‘The difference in treatment is admitted. The difference in tolls is admitted. The difference in facilities for transportation of the people is admitted. Then, the matter resolves itself into the simple proposition as to whether this railway company has satisfied this Board that this difference does not amount to an undue preference or an unjust discrimination, because the law casts the burden upon the company, where such practices exist, to establish that these practices are justified, or at any rate they do not amount to unjust discrimination or undue preference.

‘It seems to us that the bare statement of the situation, the bare statement of the tolls charged for the shorter mileage out of Mount Royal ward into the city, than is charged from Notre Dame de Grace into the city; the difference in treatment at the different points along the line of passengers moving out of Mount Royal ward into the city amounts to undue preference and unjust discrimination. The statement that if Mount Royal ward or the people residing there, or the city of Montreal of which it now forms a part, would grant certain privileges to the railway company, does not establish that it is not undue or unjust discrimination. It does not seem to us that the Act permits this railway company or any railway company to hold up a municipality and withhold privileges from them until they grant the railway company something that some other municipality may have granted. We cannot take into consideration matters of that sort in the administration of this law. It seems to us beyond any reasonable question that the only solution of this matter is that the railway company, the Montreal Park and Island Company, shall be required to grant

1 GEORGE V., A. 1911

the same facilities to the people residing in the Mount Royal ward in the city of Montreal that they grant to the people residing in Notre Dame de Grace ward, and must enter into the necessary agreements for the purpose of carrying out that change in policy and change in treatment. And we think also that we have authority with respect to all this through traffic over the Montreal Street Railway Company, and they must be required to enter into an agreement or agreements such as may be necessary for the Montreal Park and Island railway to carry out this order.

'How long do you want, Mr. Meredith, for leave to apply to the Supreme Court, if necessary?'

Mr. MEREDITH.—'You had better give me ten days; this is a very important question.'

Honourable J. P. MABEE.—'Well, we will give you thirty days.'

Mr. MEREDITH.—'Very well. I fear I will have to make an application both to the Supreme Court and to this Board.'

Honourable J. P. MABEE.—'I think so.'

Mr. BUTLER.—'Suppose they do not appeal the case.'

Honourable J. P. MABEE.—'The proceedings are to be stayed for thirty days in order to give them an opportunity to consider whatever course they may be advised upon. If nothing is done in the thirty days, and no application for appeal made, the order will issue and go into force at once then.'

The following order was issued:—

Order No. 7045.

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

Tuesday, the fourth day of May, A.D. 1909.

Hon. J. P. MABEE, *Chief Commissioner.*

D'ARCY SCOTT, *Asst. Chief Commissioner.*

S. J. McLEAN, *Commissioner.*

In the matter of the complaint of the corporation of the city of Montreal, complaining against the rates charged by and the service and operation of the Montreal Park and Island Railway Company, and in the matter of the order of the Board, No. 6805, dated April 6, 1909, directing that the Montreal Street Railway Company be made a party to the said application to show cause why it should not join with the Montreal Park and Island Railway Company in establishing a through route and through rates with the said Montreal Park and Island Railway Company.

Upon hearing the application, counsel for the city of Montreal and the railway companies interested appearing at the hearing (The Montreal Street Railway Company declaring that it appeared only to decline the jurisdiction of the Board), the evidence adduced, and what was alleged; and it appearing to the Board that the Montreal Park and Island Railway Company unjustly discriminates against the residents of Mount Royal ward in the city of Montreal, and in favour of the residents of the town of Notre Dame de Grace, in respect of the rates charged and in the service and operation of its railway:—

It is ordered that the Montreal Park and Island Railway Company be, and it is hereby, directed to grant the same facilities in the way of services and operation, including the rates to be charged by it, to the people residing in the said Mount Royal ward, that it grants to the people residing in the town of Notre Dame de Grace; and that it forthwith enter into the necessary agreements for the purpose of removing the said unjust discrimination; and that with respect to through traffic over the Montreal Street railway, the Montreal Street Railway Company be, and it is hereby, required to enter into any agreement or agreements that may be necessary to enable the Montreal Park and Island Railway Company to carry out the provisions of this order.

SESSIONAL PAPER No. 20c

And it is further ordered that the operation of this order be stayed for a period of thirty days from this date, to enable the Montreal Park and Island Railway Company or, the Montreal Street Railway Company, or both, to appeal. If no application for leave to appeal is made within the said thirty days, the order to go into effect at once at the expiration of that time

(Signed.) J. P. MABEE,

Chief Commissioner,

Board of Railway Commissioners for Canada.

Upon application being made to the Board, leave was granted to the Montreal Street Railway Company to appeal to the Supreme Court upon the following question, namely, 'Whether upon a true construction of sections 91 and 92 of the British North America Act, and of section 8 of the Railway Act of Canada, the Montreal Street Railway Company is subject, in respect of its through traffic with the Montreal Park and Island Railway Company, to the jurisdiction of the Board of Railway Commissioners'; and leave was granted to the Montreal Park and Island Railway Company to appeal to the Supreme Court upon the following question, namely, 'Whether it is right or proper for the Board in making the said order to overlook the contract bearing date 7th day of November, A.D. 1907, and made between the said Montreal Park and Island Railway Company and the municipality of Notre Dame de Grace.' Both appeals were allowed by the Supreme Court.

The following being the reasons for judgment, and the following orders were issued by the Supreme Court:—

Montreal Street Railway Company v. Montreal.

DUFF, J.—The appeal is based upon the contention that section 8, subsection (b) of the Dominion Railway Act is *ultra vires*. The enactment is as follows:—

8. Every railway, steam or electric street railway or tramway, the construction or operation of which is authorized by special Act of the legislature of any province, and which connects with or crosses or may hereafter connect with or cross any railway within the legislative authority of the Parliament of Canada, shall, although not declared by Parliament to be a work for the general advantage of Canada, be subject to the provisions of this Act relating to . . .

(b) the through traffic upon a railway or tramway and all matters appertaining thereto.

The phrase 'through traffic' is, I think, used in the Act in the sense of traffic originating on one railway and terminating on another. With respect to such traffic, all railway companies to which the provisions of the Act are applicable are required, according to their respective powers, to afford to all persons and companies all reasonable and proper facilities . . . for the interchange of traffic between their respective railways and for the return of their rolling stock (section 317, ss. 1); and '317.

2. Such facilities to be so afforded shall include the due and reasonable receiving, forwarding, and delivering by the company, at the request of any other company, of through traffic, and, in the case of goods shipped by car load, of the car with the goods shipped therein, to and from the railway of such other company, at a through rate; and also the due and reasonable receiving, forwarding, and delivering by the company, at the request of any person interested in through traffic, of such traffic at through rates.'

Such companies are by subsection 3 forbidden to

'3. (a) make or give any undue or unreasonable preference or advantage to, or in favour of any particular person or company, or any particular description of traffic, in any respect whatsoever;

(b) by any unreasonable delay or otherwise howsoever, make any difference in treatment in the receiving, loading, forwarding, unloading, or delivery of the

1 GEORGE V., A. 1911

goods of a similar character in favour of or against any particular person or company;

(c) subject any particular person, or company, or any particular description of traffic, to any undue, or unreasonable prejudice or disadvantage, in any respect whatsoever; or,

(d) so distribute or allot its freight cars as to discriminate unjustly against any locality or industry, or against any traffic which may originate on its railway destined to a point on another railway in Canada with which it connects.'

Any company having a railway connecting with another in such a way as to form a continuous line with it or which intersects another railway is required to

'afford all due and reasonable facilities for delivering to such other railway, or for receiving from and forwarding by its railway, all the traffic arriving by such other railway without any unreasonable delay, and without any such preference or advantage, or prejudice or disadvantage as aforesaid, and so that no obstruction is offered to the public desirous of using such railways as a continuous line of communication, and so that all reasonable accommodation, by means of the railways of the several companies, is, at all times, afforded to the public in that behalf.'

By subsection 5 it is enacted that—

'5. The reasonable facilities which every railway company is required to afford under this section shall include reasonable facilities for the junction of private sidings or private branch railways with any railway belonging to or worked by any such company, and reasonable facilities for receiving, forwarding, and delivering traffic upon and from those sidings or private branch railways.'

By the seventh subsection it provided that any agreement made between any two or more companies contrary to section 317 shall be 'null and void.'

The Railway Board is given very full powers to determine as a question of fact in particular cases as well as by regulation to declare, what shall constitute similar circumstances and conditions or unjust and unreasonable preferences or advantages, and whether in any given case a company has or has not complied with the provisions of section 317, as well as to declare by regulation what shall constitute compliance or non-compliance with these provisions.

The Board, moreover, may, for the purposes of section 317

'order that specific works be constructed or carried out, or that property be acquired, or that specific toll be charged, or that cars, motive power or other equipment be allotted, distributed, used, or moved as specified by the Board, or that any specified steps, systems, or methods be taken or followed by any particular company or companies, or by railway companies generally.'

There are other important provisions touching the regulation of through traffic, but it will not be necessary to refer to them specifically.

I think the question whether such enactments as applicable to provincial railways and tramways (that is to say railways and tramways subject generally to the legislative authority of the province) are within the competence of parliament must turn upon the construction of subsection 10 of section 92 and subsection 29 of section 91. I think that is so for this reason. These sections deal specifically with the division of legislative powers touching the subjects of railways and railway traffic; and although in the absence of such provisions, those subjects (in the Dominion aspects of them and for general Canadian purposes) might have been held to fall within the general introductory clause of section 91, as well as within subsection 2 of that section (Trade and Commerce), still I think a specific subsection having been devoted to the distribution of the legislative powers in regard to railways and cognate subjects between the Dominion and the provinces, we must look there for the law upon that subject.

SESSIONAL PAPER No. 20c

The subsections for consideration are as follows:—

Section 92:

‘10. Local works and undertakings other than such as are of the following classes:—

a. Lines of steam or other ships, railways, canals, telegraphs, and other works and undertakings connecting the province with any other or others of the provinces or extending beyond the limits of the province;

b. Lines of steamships between the province and any British or foreign country;

c. Such works as, although wholly situate within the province are before or after their execution declared by the parliament of Canada to be for the general advantage of Canada or for the advantage of two or more of the provinces.’

Section 91, subsection 29:

‘Such classes of subjects as are expressly excepted in the enumeration of the classes of subjects by this Act assigned exclusively to the legislatures of the provinces.’

The exclusive authority to legislate in respect of a railway wholly within a province is by virtue of those enactments vested in the provincial legislature, unless that work should be declared to be for the general advantage of Canada; in that case, exclusive legislative authority over it is vested in the Dominion. It is no doubt true that Dominion legislation in respect of a work of the latter class may affect directly a work of the former class, and it may be that as necessarily incidental to the legislative powers of the Dominion in respect of a railway wholly within the province but declared to be for the general advantage of Canada, the Dominion might legislate directly in respect of the provincial railway upon a subject matter in respect of which the province might have legislated in the absence of Dominion legislation. For example, two such railways intersect; the exercise of the powers of the Dominion to legislate for the protection of the public as affected by the operation of the Dominion railway might involve the passing of regulations touching the traffic through the point of intersection of the provincial railway and an area surrounding that point of intersection embracing to some extent the provincial line.

In the absence of Dominion regulations, the province would be empowered no doubt in respect of its own line to make such regulations upon that subject as it should see fit. But such regulations would probably be overborne when inconsistent with Dominion legislation. It is upon this principle that the respondents seek to support the authority of the Dominion to pass the enactments of the Railway Act which I have referred to and to make them applicable to provincial railways intersecting and connecting with Dominion railways. It is said that the legislation is ancillary to the exercise of the Dominion powers in respect of Dominion railways; the principal relied upon is authoritatively stated by the Judicial Committee in the following passage in the judgment upon the Liquor appeal, 1896, A.C. at p. 359.

‘It was apparently contemplated by the framers of the Imperial Act of 1867, that the due exercise of the enumerated powers conferred upon the parliament of Canada by section 91 might, *occasionally and incidentally*, involve legislation upon matters which are *prima facie* committed exclusively to the provincial legislatures by section 92. In order to provide against that contingency, the concluding part of section 91 enacts that ‘any matter coming within any of the classes of subjects enumerated in this section shall not be deemed to come within the class of matters of a local or private nature comprised in the enumeration of the classes of subjects by this Act assigned exclusively to the legislatures of the provinces.’ It was observed by this Board in *Citizen’s Insurance Company of Canada v. Parsons* (7 Ap. Ca. 108), that the paragraph just quoted ‘applies in its grammatical construction only to number 16 of section 92.’ The observation was not material to the question arising in that case, and it does not appear to their lordships to be strictly accurate. It appears to them that the language of

1 GEORGE V., A. 1911

the exception in section 91 was meant to include, and correctly describes, all the matters enumerated in the sixteen heads of section 92, as being, from a provincial point of view, of a local or private nature. It also appears to their lordships that the exception was not meant to derogate from the legislative authority given to provincial legislatures by these sixteen subsections, save to the extent of enabling the parliament of Canada to deal with matters local or private in those cases where such legislation is *necessarily incidental* to the exercise of the powers conferred upon it by the enumerative heads of clause 91. That view was stated and illustrated by Sir Montague Smith in *Citizens' Insurance Company v. Parsons* (7 Ap. Ca. pp. 108 and 109) and in *Cushing v. Dupuy* (5 Ap. Ca. 415); and it has been recognized by this Board in *Tenant v. Union Bank of Canada* (1894 Ap. Ca. 46) and in *Attorney General of Ontario v. Attorney General of the Dominion* (1894 Ap. Ca. 200).

I do not think the principle enunciated in this passage is sufficient to support this legislation as it stands. There is not here the slightest suggestion, and I do not think there can be found in any of the cases the slightest suggestion, that the Dominion has power of its own will to enlarge the limits of its legislative authority. These limits are fixed by the Act itself. What is and what is not within the meaning of the passage quoted '*necessarily incidental to the exercise of the powers committed to the Dominion under section 91,*' in such a way as to give the Dominion the power to enact it must be determined by the courts. What we have to ascertain in this case is whether in conferring upon the Railway Board the large powers over provincial railway constituted by the legislation under consideration the Dominion has been legislating in a way that is necessarily incidental to the exercise of its legislative authority in respect of Dominion railways.

Let me observe again that the imperial legislature has said *uno flatu*, so to speak, that the exclusive authority in respect of local railways declared to be for the general advantage of Canada, shall be vested in the Dominion, while the exclusive legislative authority in respect of all other such railways shall be vested in the province. Although these respective authorities, as I have already mentioned, are not so delimited as to be always and in all cases mutually exclusive, that is because there must be cases in which it is impossible for the Dominion to legislate fully in respect of its railways without passing legislation touching and concerning railways which are provincial. To the extent of that necessity we are justified in implying a power to the Dominion to legislate for the provincial railways, notwithstanding the circumstances that, broadly speaking, the exclusive legislative jurisdiction in respect of the provincial railways has been committed to the province; but the implication must, I think, be limited by this necessity. It is observable also we have not such a case here as those in which the scope of one of the subsections of section 91 has to be determined in relation to the scope of that provision of section 92, which deals with property and civil rights. This latter was the case in *Tenant v. The Union Bank*, 94 A. C. 31, and *A. G. v. A. G.* 94, A. C. 189. In both these cases it was pointed out that it would be impossible for the Dominion to proceed a single step in legislating effectively in regard to banking, or in framing a system of bankruptcy law without invading the field marked out by the broad words '*property and civil rights.*' The legislature in conferring upon the Dominion the power to deal with banking and the power to deal with bankruptcy and insolvency, was in each case carving a field out of property and civil rights. In the present case on the other hand, the Act is dealing with two separate subjects, the boundaries of which can cross one another only incidentally and occasionally. The provision defining the provincial power must be read together with the provision defining the Dominion power, in order to ascertain the limits of either. It is little to the purpose to say that where Dominion legislation and provincial come into conflict the first prevails. That is only so where the Dominion is acting within the limits of the area on which the constitution permits it to

SESSIONAL PAPER No. 20c

act, and the whole question here is whether in enacting the legislation in question the Dominion was acting within or without these limits.

The effect of the legislation under consideration is that for the purposes of through traffic, a provincial railway merely because it crosses a Dominion railway, may be made a part of the Dominion system, and indeed in respect of the control over it vested in the Board becomes a part of that system. It seems to me that the terms of subsection 10 show clearly that this is what was not to take place, unless the provincial railway should be declared to be a Dominion work as a whole. I am utterly at a loss to understand how it can be contended that merely because a railway, A B, crosses a railway, C D, the power to legislate for A B, involves the power to legislate for C D, to use the extent of making C D a mere adjunct to A B for the purposes of through traffic, when the law is that the power to legislate for C D generally is vested in another body.

How can it be said that legislation respecting such through traffic—involving the requirements that C D shall provide facilities for such traffic, enter into agreements for joint rates, submit to the regulation of the Dominion Board in respect of such rates, and otherwise comply with the provisions above-mentioned—is necessarily incidental to the exercise of the legislative powers of Parliament respecting A B. In many cases—and the present is obviously one of them—the traffic over the provincial railway (assuming compulsory joint traffic arrangements to go into effect), would be the principal and that over the Dominion railway merely subsidiary. Can it fairly be said that in passing legislation which made this change *in toto* the character of the undertaking of the provincial railway, Parliament is in substance exercising its powers to legislate for what, if the legislation became effective, must be subsidiary undertaking. Then it is argued that there must be found vested in one single authority the power to legislate wholly with regard to through traffic. But divided legislative authority is the principle of the B.N.A. Act, and if the doctrine of necessarily incidental powers is to be extended to all cases in which inconvenience arises from such a division, that is the end of the federal character of the union. That is not the true solution; the true solution lies as Lord Herschell said in the Fisheries Case, 98 A.C. 714, in the exercise of good sense by the legislatures concerned. It is obvious that with respect to through traffic upon Dominion and provincial railways the difficulty could be met by declaring the provincial railway to be a work for the general advantage of Canada (and the postulate upon which the respondent's argument rests that such legislation in respect of the provincial railways should be necessary for the conduct of business on a Dominion railway—is surely sufficient ground for such a declaration); or by the constitution of a joint board or separate boards authorized to act together and empowered to deal with such cases.

That it might be convenient that the Dominion and the provincial railway should have joint traffic arrangements and that these should be under a single control does not advance the argument of the respondents. The same argument would apply to the case of a provincial line of steamships having a terminus near a station or terminus of a Dominion railway or a provincial telephone line or telegraph line which it might be thought useful to link up with the railway telegraph system. Does anybody seriously think that legislative control of the railways involves (as necessary incidental to it) under the subsection quoted, the legislative power to effect such amalgamations and to reorganize the provincial undertakings to suit the exigencies of the altered conditions. I am wholly unable to understand the ground upon which it can be held that merely because of physical juxtaposition such provincial undertakings, so long as they remain provincial, can be held (to the broad extent necessary to support such legislation as that in question here), incidental (for legislative or other purposes), to such a Dominion railway—and (in the legislative aspect), especially when it has been declared that the provincial undertaking shall generally be under the exclusive control of the province.

1 GEORGE V., A. 1911

IN THE SUPREME COURT OF CANADA.

Montreal Street Railway Company v. City of Montreal.

The CHIEF JUSTICE.—I am of opinion that the appeal should be allowed for reasons given by Mr. Justice Duff.

GIROUARD, J.—I agree with my brother Duff. If the incidental or ancillary rule is to be applied in a case like this, then the power of the provincial legislature under section 92, subsection 10 of the B.N.A. Act with regard to local railways is simply wiped out. To-day the question may be only the transportation of persons, to-morrow it may involve the carriage of goods and even perishable articles, and as a consequence the supply of refrigerators, cars, cold storage, warehouse, switching and stations. I think the appeal of the Montreal Street railway should be allowed with costs.

DAVIES, J. (dissenting):—

Appeal from an order of the Board of Railway Commissioners respecting 'Through Freight.'

The B.N.A. Act, 1867, in the distribution of legislative powers between the Dominion Parliament and provincial legislatures expressly excepts from the class of 'local works and undertakings' assigned to provincial legislatures 'in addition to those undertakings which connected one of the provinces with another or which extended beyond the limits of the province and others specifically described the following,' subsection (c) 'such works as although wholly situate within the province are before or after their execution declared by the Parliament of Canada to be for the general advantage of Canada,' &c. Section 91 confers on the Parliament of Canada exclusive legislative authority over all classes of subjects so expressly excepted from section 92.

The Montreal Park and Island railway, originally constructed under a provincial charter was such a work, and being declared by Parliament to be 'for the general advantage of Canada' became a Dominion railway, subject in all respects to the legislative powers of the Dominion Parliament and as a consequence to the Railway Act of 1906, 3 Edw. VII., cap. 37.

Section 8 of that Act reads as follows:—

'Every railway, steam or electric street railway or tramway, the construction or operation of which is authorized by Special Act of the legislative of any province, and which connects with or crosses or may hereafter connect with or cross any railway within the legislative authority of the Parliament of Canada, shall, although not declared by parliament to be a work for the general advantage of Canada, be subject to the provisions of this Act relating to—

(a) the connection or crossing of one railway or tramway with or by another, so far as concerns the aforesaid connection or crossing;

(b) the through traffic upon a railway or tramway and all matters appertaining thereto;

(c) criminal matters, including offences and penalties; and

(d) navigable waters;

Provided that, in the case of railways owned by any provincial government, the provisions of this Act with respect to through traffic shall not apply without the consent of such government.'

The M. P. and I. railway at the time or shortly after it become a Dominion undertaking or work was or became physically connected with the Montreal Street railway, which is a provincial road operating under a provincial charter, and part of the Park Railway line was leased to and other parts operated by the Montreal Street Railway Corporation, under a somewhat complicated traffic arrangement between the two companies, involving running rights by each company's cars over the other lines, and the leasing of some of the Street Railway's cars to the Park and Island railway. At the time the application was made to the Board of Railway Commissioners, the

SESSIONAL PAPER No. 20c

physical connection of the two roads existed and passengers were carried directly over one road to and over the other under such traffic agreement and running rights. The carriage of passengers is declared by paragraph 31 of section 2 to be included in the word 'traffic' whenever used in the Act.

The 317th section of the Act confers the amplest powers upon the Board of dealing with the traffic upon railways and expressly includes 'through traffic' and through rates.

The question we have to decide is whether the Montreal Street railway by reason of its physical connection with the Montreal Park and Island railway and the traffic arrangements before referred to are amenable and subject to the jurisdiction of the Board with respect to 'through traffic' passing from the Park and Island railway over its line and *vice versa*.

A distinction was attempted to be made at the argument between the Board's jurisdiction over through traffic on a federal road which was interprovincial and that over a road which though federal was wholly within the limits of a province.

The appellants contended that section 8 of the Railway Act should be limited in its application to such provincial railways as connect either directly or indirectly with lines extending beyond the limits of the province, and as the Montreal Street railway was not so connected, the section could not be made applicable to them.

For myself, I fail to appreciate the distinction suggested. If the physical connection of a provincial railway with a federal interprovincial railway brought the former road under and subject to the jurisdiction of the Board of Railway Commissioners so far as through traffic passing over it and the federal railway was concerned, it seems to me that the same result must follow if such federal railway happened to be itself confined within provincial limits. It is not the physical limits alone of the railway which gives parliament legislative jurisdiction over it. If the railway connects one province with another or extends beyond the limits of a province, it comes within the exception (a) of subsection 10 of section 92 of the B.N.A. Act, and if being wholly within the limits of a province it is declared by the Parliament of Canada to be for 'the general advantage of Canada' it comes within the exception (c) of that subsection.

In either case and in both cases alike when an undertaking or work is brought within such exceptions, it becomes subject to the exclusive legislation of the Dominion, and I fail altogether to understand how it can be held that the physical connection of a provincial road with one of such federal roads would operate to give the Board of Railway Commissioners jurisdiction over the through traffic over it and not do so in the case of such connection with the other federal road. The mere accident that the federal road in one case is confined to a single province and in the other runs beyond the provincial boundary cannot determine the question. That must surely depend upon whether it is a federal road carrying through traffic over a provincial one quite irrespective of its limits within or without a province.

Then it is admitted with respect to such 'through traffic' the provincial legislature has not the jurisdiction to legislate. If in such case the Dominion Parliament has not jurisdiction, then it does not exist at all, and we would have the curious anomaly existing of an enormous class of traffic known as 'through traffic' being carried over two roads, one federal and one provincial, without either parliament or the legislature having jurisdiction over such through traffic. Such a condition is, it seems to me in view of the construction heretofore placed upon the B.N.A. Act, impossible. The power to legislate with regard to such through traffic rests somewhere. So far as the federal or Dominion road is concerned it undoubtedly rests with the Dominion Parliament, but to exercise such power effectively, the Board of Railway Commissioners, to whom it has been given by Parliament, must necessarily have some jurisdiction over the provincial road with which the federal one is physically connected. Such jurisdiction of course goes no further than the control of 'through freight' renders necessary. In my opinion, it goes that far. Parliament does not possess as

1 GEORGE V., A. 1911

was suggested a concurrent authority with the provincial legislature to control this through traffic. If, as I have argued, it has authority to legislate at all on the subject under the exception, subsection 10 of section 92 of the B.N.A. Act it has exclusive authority. Assuming there was a domain in which the legislation of the Dominion and of the province might overlap, then, if the Dominion alone has legislated, or if both Dominion and province have legislated and the two legislations meet, that of the Dominion must prevail, *G.T.R. v. A.G. of Canada*, 1907, A.C., at page 68, and *Toronto Corporation v. C.P.R.*, 1908, A.C., page 58.

In the present case it seems to me that when Parliament legislated, the field with respect to 'through traffic' was covered. Section 8 of the Railway Act clearly deals with just such a case as this and if *intra vires* must of course govern. That it necessarily deals with property and civil rights or other matters assigned by section 92 to provincial legislatures is no argument against its validity. If it is legislation to the effective exercise of a power exclusively vested in the Dominion or even held to be fairly ancillary, to such, that is sufficient. The jurisdiction of the legislature over 'local works and undertakings' as over 'property and civil rights' in the province is quite consistent, as said by the Judicial Committee in *Toronto v. C.P.R.*, A.C. 1908, at page 59, 'with a jurisdiction specially reserved to the Dominion in respect of a subject matter not within the jurisdiction of the province.' See also *Toronto v. Bell Telephone Company*, A.C. 1905, page 52.

My conclusions, therefore, are that the B.N.A. Act confers jurisdiction upon the Dominion Parliament under the exceptions to section 10 of section 92 to legislate on the subject matter of 'through freight.' That legislation has been enacted in section 8 of the Railway Act in terms wide enough to reach the case of 'through freight' passing from a federal to a provincial road physically connected, and that the Board in assuming a jurisdiction over the provincial road for the purpose of giving effect to its order respecting such through freight was acting within its powers.

I would dismiss the appeal, therefore, with costs.

INDINGTON, J.—The Board of Railway Commissioners for Canada directed amongst other things—

that with respect to through traffic over the Montreal Street railway, the Montreal Street Railway Company, be, and it is hereby required to enter into any agreement or agreements that may be necessary to enable the Montreal Park and Island Railway Company to carry out the provisions of this order.

The former company now appeals on the ground that the Board has no jurisdiction to make such direction.

The appellant is a corporation created by 24 V., c. 84, of the old province of Canada for the purpose of constructing and operating street railways in the city and parish of Montreal.

Its original powers have been many times added to by enactments of the legislature of the province of Quebec.

The manifold details of all these legislative provisions, original and supplementary, need not be entered into; but we must, I think, observe that from the beginning powers were given to enter into contracts with the said city and adjoining municipalities relative to the construction of the railway, reparation and grading of the streets used, the location of the railway, the time and speed of cars, the amount of license to be paid by the company annually, *the amount of fares to be paid by passengers*, and generally for the safety and convenience of passengers and the conduct of the company relative to non-obstruction or impeding of the ordinary traffic.

Its rights to fares at all and its entire existence for any useful or profitable purpose depend upon such a contract. Either the contract has been observed or not. If broken, the law gives a remedy; and if persistently broken, more than one remedy. Persistent default means forfeiture.

SESSIONAL PAPER No. 20c

If observed, how can parliament venture to amend it? A step or two in its history unfolds the reason or excuse, or peradventure, as I conceive, proves parliament never intended such inference.

The railway has been changed from having been of the kind served with horse-power to that of electric motors, but it has been operated throughout as a street railway for passengers only, since shortly after the company's incorporation. It never had power to perform other services save in recent years for carrying mails; enlarged by a permission to acquire power (which has not, so far as appears, become effective) from the municipalities, under 6 Ed. VII. of Quebec, c. 57, s. 5, to carry freight.

The Montreal Park and Island Railway Company is a corporation originally incorporated by the legislature of the province of Quebec by 48 V., c. 74, which Act was also amended by adding further powers.

It was of a different character from the other company. It combined the features of a passenger railway with that for hauling freight, and did not depend on the use of streets or highways as the other, but chiefly acquired its rights of way over lands near or adjacent thereto. In short it was a general purpose railway. Merely noting just now these facts and this difference in the character of the roads, I will later on refer to the legal results thereof.

In 1893, after it had been partly constructed and operated the fact became evident that its services could be made much more beneficial to the public by its arranging with the Street Railway Company to carry, from certain points, such of its passengers as desired to reach places served by that road, and to which the Montreal Park and Island railway did not run.

Pursuant to section 12 of its charter giving power to do so, a traffic arrangement was made with the appellant by a contract between them on July 11, 1893, which was to endure for twenty-five years, for the conveyance of passengers through and between the city of Montreal and its suburban municipalities.

Each was bound by this contract to build and develop its system as specified and thus increase the business the other might thereby expect to reap some benefit from.

Some cars of the Street Railway Company were to be leased to the other company, but if not enough supplied thus for its own use it might build of its own.

Some of these cars were to be used interchangeably by each company running them over the roads of the other.

It followed, as travel increased over each road, that many cars of each company would not run at all on the other road but deliver its passengers at its own terminus, or point of junction with the other road.

From each of those who got in the cars that run over the track of the other road an extra fare, but less than the full fare, is exacted.

From each of those unfortunate enough to get on a car confined in its running to the road it belongs to and getting off that to begin a new journey, full fare may be exacted. It is not pretended in either case greater fares are exacted than the city contracted for, in granting the franchise to run; which the basis on which the various rights of all concerned rest.

Each company collects its own fares. The agreement provides for this. Indeed, very likely neither could lawfully do otherwise.

Some citizens found in all this a grievance, notwithstanding the beneficent effect of the agreement in ameliorating prior conditions sanctioned by the contract of the city made on their behalf. This grievance, along with the other presently to be referred to, was ventilated before the Board.

It was the kind of grievance that has at some period or other had to be endured in, I think, every large city on this continent as the result of civic want of foresight in permitting, without adequate control, more than one company to use the city's streets.

It is not necessary to follow in detail, but yet better to bear in mind, in a general way, how the municipalities in the district of or about Montreal, one after

1 GEORGE V., A. 1911

another, created by the same legislature, and authorized by it to do so, each conferred franchises and made bargains to be served respectively by either of these systems.

Rates of travel in each, roughly put at five cents for passing through its own bounds, seem to have formed the basis for such bargains.

Annexations of growing suburbs to the rapidly growing city followed (possibly beyond what was expected), and thus the commercial, social, and legal problems became day by day more complicated.

These companies, however, all the time were (until what I am about to advert to happened), under the control of the legislature of Quebec.

Not only were they necessarily under such control as corporations created thereby, with 'provincial objects,' but also by virtue of that other exclusive power conferred by the B.N.A. Act 92, subsection 10, on that legislature.

It might also be observed that by the same Act the subject of 'municipal institutions' was assigned to the same exclusive control; and that the purpose of the creation of the appellant was essentially to aid in street travel over highways peculiarly within the control of the respective municipalities, created from time to time by such legislature. These municipalities were also endowed thereby, as no other legislative power could, with the capacity of contracting in such manner as to each might seem meet for its own safety and convenience and for taxation of its street railway companies, being either direct or having relation to the licensing power and license of each by such municipal corporations respectively.

One might, if it saw fit, as so many do, adopt the method of exacting as a condition of its concession a pro rata share of the fares or net profits thereof, thinking (if such a word can be used in that connection) to make money thereby.

Another (perhaps thinking a little more deeply that such methods might only increase the citizen's own burden) might forego the fancied benefit and stipulate instead for a lower fare than the other one which was possibly reaping in its treasury but a small fraction of the increase included in the higher fare.

I know not whether such varying bargains were made or not. I know they were possibly and probably results of the provincial legislation under which the conditions we have to deal with were created. These facts must not be lost sight of when we try to measure either the purpose or result of the other legislation we have to pass upon.

Can any one pretend that it is competent for the Dominion Parliament in such a case to meddle at all? The legislature may have been unwise; the municipalities may have been improvident; the condition so created may have been, if you will, intolerable; but the power to rectify it rested in the local legislature or in the existing law governing the civil rights of the parties.

Let us now turn to see what happened legislatively to even appear to render such interference by Parliament possible. Let us also then examine this legislation now in question, and in doing so, have due regard to the presumptions that Parliament can never have intended to invade the rights of any province, or violate the sanctity of any contract, or amend the corporate creations of another legislature.

After entering into the above-mentioned agreement, the Montreal Park and Island Railway Company had itself incorporated by the Parliament of Canada by 57-58 Victoria, chapter 84, whereby it was so declared to be a work for the general advantage of Canada. In this very legislation the validity of its then existing contracts with others is recognized and affirmed.

It got no powers by such Act of incorporation or by any Act which would constitute it one of either of the classes of works specifically excepted from the operation of subsection 10 of section 92 of the B.N.A. Act, save within subsection (b) thereof, that of having been declared to be a work for the advantage of Canada.

And to clear the ground I may as well state neither company fell otherwise within any of such exceptional clauses.

SESSIONAL PAPER No. 20c

The relations between the two companies remained the same as fixed by the agreement.

The Railway Act enacted in 1903, which provided for the constitution of a Board of Railway Commissioners for Canada, provided what appears now as section 8 of the Railway Act in the Revised Statutes of 1906, as follows:—

Every railway, steam or electric street railway or tramway, the construction or operation of which is authorized by special Act of the legislature of any province, and which connects with or crosses or may hereafter connect with or cross any railway within the legislative authority of the Parliament of Canada, shall, although not declared by Parliament to be a work for the general advantage of Canada, be subject to the provisions of this Act relating to:—

(a) the connection or crossing of one railway or tramway with or by another, so far as concerns the aforesaid connection or crossing;

(b) the through traffic upon a railway or tramway and all matters appertaining thereto;

(c) criminal matters, including offences and penalties; and

(d) navigable waters;

Provided that, in case of railways owned by any provincial government, the provisions of this Act, with respect to through traffic shall not apply without the consent of such government.

It is upon this section that the Board had founded its order. It was moved thereto by the fact that in 1907 the Montreal Park and Island Railway Company had made a bargain with the municipality of Notre Dame de Grace, lying beyond Montreal's limits entirely, to serve its people there with transportation of passengers into Montreal at a five-cent fare, in consideration of receiving a fifty-year franchise from the municipality and exemption from taxation. This the municipality was enabled to give by special legislation of the provincial legislature. The existence of the agreement of the appellant above referred to doubtless helped by its comprehensive nature to enable the Montreal Park and Island Railway Company to carry out this bargain.

It is conceded that the Montreal Park and Island Railway Company is subject to the jurisdiction of the Board.

It is attempted to maintain, therefore (as if it were a matter of course), that as the result would be to give this district better passenger rates than some other districts, there is that unjust discrimination parliament had in view.

Inasmuch as the only question we have to decide is whether or not the appellant falls within the power of the Board to make the order appealed from, which directs it to remedy this alleged unjust discrimination by abandoning its right under the agreement and entering into some other agreement, I pass no opinion upon whether there in fact is any such discrimination or not.

It is urged that as there is in fact that physical connection the agreement provides for and passengers by means thereof pass from one road on to the other, there is through traffic, in fact, falling within the meaning of subsection (b).

Is that the sort of thing therein meant by 'through traffic'?

Was the street railway system of any city or town in Canada supposed to have been within the range of things so legislated about in the Railway Act? Was interference thereby with the charters of such roads, the terms of their contracts with the municipalities served, their rates and tolls all dependent on such contracts, and their contracts with each other ever in the contemplation of any one promoting or enacting such legislation?

I most respectfully submit not. An omnibus line or other means of transportation might as well be held to fall within through traffic if parliament so willed.

The right to deal with these street railways and their proprietors, as to crossings to be made either by them over roads under the jurisdiction of parliament or by such latter roads over street railways, is undoubtedly vested in parliament.

1 GEORGE V., A. 1911

The right of such a local company, to seek when endowed by its charter with powers to do so, connection of any kind, with the creation of Parliament either physical or limited to the establishment of a through rate or route may also be well within the jurisdiction of parliament. And I submit the words of the first part of the section and of subsection (a) can become operative in such cases and thus be given a meaning without doing violence of the kind I have indicated, as obviously is involved in the giving of effect to respondent's contention.

Subsection (b) it is urged means something much more than implied in either suggestion. I agree that it is so, for the first part of the section extends to or asserts a jurisdiction over every kind of railway described therein; and uses apt words to cover each class or kind. When, however, distributing the purpose and limit of the asserted jurisdiction it changes this; and in subsection (b) relied upon by the respondent, the words 'street railway' disappear. It is the through traffic upon a 'railway or tramway' that alone is covered thereby. 'Tramway' by its origin means a freight road. In Britain the term is very commonly extended to cover street railways but not so here.

Besides street railways, many local general purpose railways authorized by some special Act of the legislature of a province may have been had in view.

I am not called upon to express any opinion of whether or not it would be safe to assume that parliament in any of these cases could, properly observing the terms of section 92, subsection 10 of the B.N.A. Act, assert without the actual or implied sanction of their parent legislature this jurisdiction over them. I can, however, easily conceive of this legislation having an application thereto that never could have been intended to apply to or render mere street railways subject to the jurisdiction of parliament.

Neither the appellant's origin, history or present condition lend colour to its being of the class included in subsection (b) any more than its being in any way related to subsection (d).

We may now turn to section 317, so much relied upon by the respondent, to define traffic and to bring as a result by virtue of the words 'through traffic' in subsection (b) appellant within the jurisdiction claimed.

Section 317 in its whole scope, and in its very language so clearly relates to a traffic that included at least carriage of freight as part of the service to be considered that I fail to find therein any encouragement for me to venture to apply it in the sense of aiding the claim set up by the respondent.

We have no legislative interpretation of the phrase 'through traffic,' but we have in this Act the following interpretation given of 'traffic' by subsection 30 of section 2 as follows:—'Traffic means the traffic of passengers, goods, and rolling stock.'

This it is to be observed is not a definition in the disjunctive form necessary to give the effect contended for, by applying the Act to a street railway used only for passengers.

The purview of the Act as a whole seems to forbid us interpreting it as if intended to invade needlessly the subjects of either civil rights or legislative provisions relative to municipal institutions, or the contracts of municipal corporations, or local works and undertakings all of which should be asserted and assisted by a maintenance of this jurisdiction now called in question. I do not deny the possible meaning claimed for these sections, but I would not impute to Parliament in any such case the intention to so enact unless I found it written in the clearest possible language.

I cannot, therefore, impute it when the doing so must only rest upon inferences drawn from a section or two exhibiting a general purpose of producing equality in some things relative to certain classes of dealings. These inferences do not necessarily extend beyond these things over which Parliament has undoubted jurisdiction.

When we are referred to section 317 to find what 'through traffic' means, let us observe the section expresses or implies as essentials that the Board can create or

SESSIONAL PAPER No. 20c

define it, can insist upon it, and direct the facilities for it and I rather think the accommodation for it also.

It seems going very far to draw such extensive powers over provincial legislation and its products from such a basis as is thus suggested in the classification of transportation, yet it is surely impossible to draw any line between that claimed specifically here and all else thus directly connected with and involved in the proposition. It is not a part but the whole of the subject matters of and appertaining to through traffic as indicated in the Act which are covered.

Another view of this case occurs to me, and that is this: assume federal relations and limitations out of the case and all of the above recited legislation by both Parliament and legislature to have been enacted by one legislative body and all the contracts and acts done pursuant thereto, could it be said in considering such an Act as the Railway Act is passed by such legislature of plenary capacity that it must have been intended thereby to abrogate all such preceding legislation and dissolve everything in municipal and other contracts resting thereupon in the way involved herein? I think not.

Again, it is strangely claimed as a basis for the right of interference that an agreement exists which it is claimed provides for through traffic.

Either the agreement is outside the range of or on an infringement of subsection 7 of section 317.

If it can be held to fall within that section, then it may be null and void or have become so thereby, but how can that extinction of it become a foundation for the jurisdiction to enforce the making of a new contract, and that regardless of the corporate powers to do so.

But confirmed, as already pointed out, by Parliament itself, how can the Railway Act be held to have been meant to invade the sanctity of a contract thus affirmed?

In this regard, possibly section 3 of the Act averts such a result. Neither this view nor that section was put forward in argument.

But having regard to the nature of the legislation that takes a step for the express advantage of Canada by declaring the work removed because of that character, it seems to me quite arguable and possibly conclusive on the whole issue involved.

I have thus far proceeded upon the presumption that Parliament properly regarding its constitutional limitations could never have been supposed to have intended what is claimed. I have arrived at the conclusion that its language (though susceptible of such construction) does not necessarily warrant any such assertion of power. Its language must always be read in light of the limits of its constitutional jurisdiction. That language used here when so read is clear, operative, effective, and limited.

The case, however, was chiefly argued upon the broad question of whether Parliament could or not so deal with appellant, its charter and its contracts as is implied in the maintenance of the part of the order complained of.

I have no hesitation in saying that in my judgment such legislation by Parliament, as this is claimed to be, against the will of the local legislature creating such corporations as the municipalities, and those others for helping local street travel would be *ultra vires* and if this must be held to have such meaning it is *ultra vires*.

The legislative power in relation to those elements of municipal government and all it implies; 'local works and undertakings' and 'corporations with local objects,' together with 'property and civil rights' has been confided exclusively to the local legislatures subject to the checks of the veto, and in regard to local works of their being declared by the Parliament of Canada for the advantage of Canada or two or more provinces thereof, and then removed into the jurisdiction of and there to be dealt with by Parliament.

In passing, I may remark Parliament having that power and yet not having exercised it is, I agree, as was urged, a cogent argument against any intention in the Act to found the interference asserted.

1 GEORGE V., A. 1911

I am not oblivious of the apparent invasion already made by holding that Parliament may impose upon municipalities duties of guarding railway crossings for which the legislature may never have made provision in the capacity given its municipal creations or otherwise by delegating to them the power of direct taxation to provide therefor.

The case of *Toronto v. G. T. Ry. Co.*, 37 S.C.R., 232, I admit carried the matter far and was upheld in the Privy Council.

That was a case not of directing anything as incidental and ancillary to the construction of the railway or the necessities of the case, but like what is now in question; shall we call it the peace, order, and good government of the people of Canada?

I respectfully submit to the authority of that decision in the wide field it operates upon, but, as it so often happens, principles of legal or constitutional action are not always carried to their logical conclusions, I await results before going further, and relieving, by virtue only of Dominion legislation a municipality from a contract its provincial legislative creator enabled it to make and thereby bound it to observe.

Legal history, and especially constitutional history is full of illustrations of the recoil, as it were remaining instead of that of the original force moving further forward.

It was urged here as there that the power claimed was but ancillary to the main purpose of the Act, and thus being merely incidental thereto for the due efficiency thereof might well be exercised.

Amplify thus every possible exercise of each of the exclusive powers and the residuary powers committed to Parliament, to the fullest extent, and if you please in the most logical manner, of the kind involved in the claim, and there would not be much left of the provincial powers; when we have regard to the doctrine that where each has a legislative power that of the local legislature must yield to the supremacy of Parliament.

Perhaps the best answer to such a reflection is that men collectively seldom feel bound to observe any kind of logic in any sequence of their Acts, and that public opinion however illogically evoked is the only safeguard and ultimate court of appeal.

Meanwhile, we sitting here, must so far as we can have some regard to the meaning of these words 'exclusively make laws,' designed to cover such matters as we are now dealing with.

These words are used in an instrument that obviously implies some limitations upon them in order that other exclusive powers given by like words and assigned elsewhere may be effectively exercised.

Can any limits be thus or otherwise imposed than those arising out of the necessity for giving effective scope and operation to the due exercise of those other exclusive powers, or as Lord Herschell called it 'necessarily incidental' at page 309 of *Attorney General for Ontario v. Attorney General for the Dominion*, 1896, A.C. 348? Neither phrase, perhaps, accurately defines everything to be considered, but in the pages 309, 310, and 311 of that judgment the subject of those limitations is comprehensively and with many needful qualifications dealt with in such a way as to be, if I may be permitted to say so, a practically safe guide in other cases, as well as that there in hand. But clearly it was not followed by the draftsman of these sections as his guide.

Can desirableness of expediency or the residuary powers ever be invoked to justify imposing further limitations than that which necessity so defined draws after it?

To classify anew by such elastic, sectional, cross classifications the subject matters of legislative jurisdiction as was 'through traffic' attempt indicates, must invariably lead to trouble.

If the existence of mere relation of some kind, however remote the relation to the subject dealt with, can justify Parliament in annexing everything of that sort as ancillary to its exclusive powers, it might in virtue of its power over navigation under-

SESSIONAL PAPER No. 20c

take in all its details the solution of the sewerage question in the cities and towns along the Ottawa river because some of them empty their sewers therein.

I do not allude to the right to prohibit that, but the assertion, instead thereof, of a right to cure the evil by regulating everything to be done in respect thereof and therefor, by these municipalities. It would be as justifiable as undertaking to manage the street railway of Montreal because that road had some relations with another over which Parliament, legislatively speaking, had entire dominion.

I think we must in the development of what the B.N.A. Act has provided ever have regard to the consequences of any decision we come to including that of the bearing our holding may have in relation to other matters even not directly in appearance involved therein.

Instead of merely drifting, let us try to see whither we are drifting.

If it were necessary to elaborate upon the actual issue now raised, a great deal might be said and more forcibly said than is suggested by a consideration of the several conditions of things I have outlined. I have throughout so outlined these to suggest the many and obvious difficulties in the way of holding as *intra vires* such legislation by Parliament, if assumed to be of the character claimed, and in the next phrase of imputing to Parliament by language which is ambiguous that which involves such a dangerous challenge of the products of legislative conditions; in this case ratified by itself.

As to the argument that the power to rectify an evil must exist wholly in one legislature, I should have thought but for its persistent reiteration that it was obviously futile.

Every one can recognize many cases where it does not exist; and also many persons fancy theoretically that if it were not for the partition of legislative powers necessarily incidental to the federal system many evils might be more speedily and more efficiently rectified, instead of sometimes being only partially cured by the efforts of one legislative power.

Every intelligent man however knows, if he has watched the moulding of public opinion, how fallacious the theory is. Indeed the converse is, I believe, the case in a large degree. Passing that, what is the argument worth?

The need of this very power sought to be exercised in relation to through traffic exemplifies how cautious we should be in assuming that the limiting of legislative power in relation to furnishing a complete remedy necessarily leaves our country entirely helpless as the argument implies. The evils incidental to the operation of that traffic were and perhaps are international in some of the ranges of its development, yet must we wait for others and refrain from any amelioration because clearly the entire power does not lie with our Parliament.

In like manner and in a less degree is involved the dealing with all roads within Canada.

Parliament can by asserting its power over those roads owing existence to it and obedience to its mandates pretty effectually check any evil of the kind aimed at. Public opinion will soon bring if need be the supplementary aid of other powers.

Strong measures short of the invasion of provincial rights can easily be devised, possibly within the present Act, and made to be effectual, if there is any evil practice to be cured.

It is clear that the order is an interference with provincial legislation in relation to four of the most important subjects assigned to the exclusive legislative jurisdiction of the provinces. It is clear also that there was no necessity for Parliament to provide for such an interference. It is to my mind equally clear that the maintenance of such a pretension of power on the part of Parliament would breed infinite disorder.

I think the appeal must be allowed. The respondent's improvidence and unsuccessful effort to be relieved therefrom perhaps deserve that we should give costs against it but for the manner the case was presented by the appellant to the Board.

1 GEORGE V., A. 1911

Instead of merely presenting its respectful compliments to the Board it ought to have set forth some of the basic facts of a most complicated condition of things as reason for its protest against the jurisdiction.

With respect, I hardly think the failure to do so was fair to the Board.

ANGLIN, J. (dissenting).

The question upon which leave to appeal has been given under the provisions of subsections 2 and 3 of section 56 of the Dominion Railway Act is expressed in the orders of Mr. Justice Duff and of the Board of Railway Commissioners in identical terms, as follows:—

Whether upon a true construction of sections 91 and 92 of the British North America Act, and of section 8 of the Railway Act of Canada, the Montreal Street Railway Company (the present appellant), is subject, in respect of its through traffic with the Montreal Park and Island Railway Company, to the jurisdiction of the Board of Railway Commissioners of Canada.

The construction and operation of the Montreal Street railway is authorized by special Acts of the legislature of the province of Quebec, and it still remains a railway under provincial control. The Montreal Park and Island railway, though originally built as a provincial undertaking, having been declared by Parliament to be a work for the general advantage of Canada, is now under federal control.

The question formulated for determination by this court involves two distinct questions—the first, whether an order affecting a provincial railway in respect of through traffic received by it from, or transmitted by it to a federal railway, is within the purview of section 8 of the Dominion Railway Act; and the second, whether, if it purports to authorize the making of such an order, this legislation is *intro vires* of Parliament.

Throughout this opinion I shall for brevity and convenience use the term ‘provincial railway’ to signify a railway not owned by a province, but subject to provincial legislative authority; and the term ‘federal railway,’ to designate a railway subject to federal legislative authority, though not owned by the Dominion.

The effect of the statutory declaration that it is a work for the general benefit of Canada has been to render the Park and Island railway a federal railway to the same extent and as completely as if it were interprovincial or extended beyond the limits of the province of Quebec. Its federal character once established exists for all purposes and the jurisdiction of Parliament over it and over everything that is necessarily incidental and ancillary to its operation and to the proper carrying out of the public services which it has been established to render is neither greater nor less than that which Parliament possesses over other federal railways such as the Canadian Pacific and the Grand Trunk.

I entirely fail to appreciate the distinction which the appellants have sought to draw between a federal railway constructed wholly within one province and having no extra-provincial connection and an interprovincial railway. Both are alike excepted from section 92 of the Act.

A brief consideration of the form of section 8 of the Railway Act will make it clear that it applies equally to provincial railways connecting with each class of federal railways. The necessity for federal regulation in respect to ‘the connection or crossing’ must be the same whether the federal railway be such because it is interprovincial, or because it has been declared to be for the general advantage of Canada. The first paragraph of section 8, which describes the railways to be affected, applies equally to clause (a) dealing with ‘connection or crossing’ and to clause (b) dealing with ‘through traffic.’ This description was not meant to include certain railways for the purpose of clause (a) and to exclude the same railways for the purpose of clause (b). Whatever may be its proper construction and effect, clause (b) applies to the Montreal Street railway connecting with the Park and Island railway

SESSIONAL PAPER No. 20c

equally with clause (a). I find no justification for excluding from the operation of either part of section 8 any railway (including a street railway) constructed under provincial authority, which connects with any railway within the legislative authority of Parliament, however the authority of Parliament may have arisen.

We must next inquire what is the 'through traffic upon a railway or tramway' to which clause (b) relates. Section 8 declares that certain railways 'shall be subject to the provisions of this Act relating to . . . through traffic,' &c. There are several sections of the Railway Act which 'relate to' through traffic. In some of them through traffic obviously means traffic carried between terminal points on the same railway as distinguished from traffic carried between intermediate stations. From others, particularly those dealing with interchange of traffic and 'through rates' for such traffic (section 317) to be provided by a 'joint tariff' (section 334), it is plain that through traffic may also include traffic originating upon one railway and carried to or towards its destination on another. Section 8 deals entirely with the connection or crossing of two railways, and it is intended to provide for matters arising out of such connection or crossing. It subjects every provincial railway crossing or connecting with a federal railway to federal legislation in respect to 'the through traffic on the railway or tramway.' Obviously it was not meant—it could not have been meant—to attempt to control through traffic on a provincial railway or tramway in the sense of traffic carried upon it between its own termini. That would be a distinct invasion of provincial rights; it would be direct and substantive legislation on a subject within the exclusive domain of the provincial legislature. Equally clearly the section does not apply to similar traffic on a federal railway; such traffic is fully provided for elsewhere in the statute. It is, therefore, reasonably certain that the 'through traffic' to which the section is meant to apply is traffic carried from a point on one of the connecting railways to a point upon the other; and it matters not whether it is the point of origin or that of destination which is on the federal railway. But for the serious discussion of it at bar, and doubts then expressed by some of my learned brothers, I should not have thought the meaning of 'through traffic' in section 8 open to question. I should add that 'traffic' in the Railway Act means the 'traffic of passengers, goods, and rolling stock.' Section 3 (31), but not necessarily of all three. The carriage exclusively of freight or of passengers is, I think, within this definition. I am satisfied that the order in appeal deals with matters within the purview of section 8 of the Railway Act.

I am also of the opinion that this legislation is *intra vires* of parliament.

If it had no connection with or did not cross a federal railway, the Montreal Street railway could, no doubt, be a 'local work or undertaking' within clause 10 of section 92 of the B.N.A. Act, and not within any of the exceptions to that clause, and therefore under the exclusive legislative control of the province. Whether, when the railway with which it is connected became a federal railway, it ceased, as contended by counsel for the respondents, to be such a local work or undertaking as should be deemed for any purpose exclusively within the legislative control of the province, it is unnecessary to determine. Assuming that, notwithstanding this connection, the Montreal Street railway still remains a local work or undertaking within clause 10 of section 92, I am of opinion that the Dominion legislation authorizing the order now in appeal is nevertheless valid.

The Park and Island railway, having been declared to be a work for the general advantage of Canada, is within exception (c) to clause 10 of section 92. Railways expressly excepted from this clause are, under clause 29 of section 91, one of the enumerated subjects declared to be within the exclusive legislative authority and control of the Dominion. In regard to them parliament is clothed with plenary powers of legislation, including power to enact measures which may trench upon provincial legislative authority, when such enactments are truly or properly ancillary or necessarily incidental to the complete and effective control of such federal railways.

1 GEORGE V., A. 1911

From the judgment of Lord Watson in *Attorney General for Ontario v. Attorney General for the Dominion* (1896), A.C. 348. I extract the following passage, found at pp. 359, 360:—

It was apparently contemplated by the framers of the Imperial Act of 1867 that the due exercise of the enumerated powers conferred upon the parliament of Canada by section 91 might, occasionally and incidentally, involve legislation upon matters which are *prima facie* committed exclusively to the provincial legislatures by section 92. In order to provide against that contingency, the concluding part of section 91 enacts that ‘any matter coming within any of the classes of subjects enumerated in this section shall not be deemed to come within the class or matters of a local or private nature comprised in the enumeration of the classes of subjects by this Act assigned exclusively to the legislatures of the provinces.’ It was observed by this Board in *Citizens’ Insurance Company of Canada v. Parsons*, 7 A.C. 108, that the paragraph just quoted ‘applies in its grammatical construction only to No. 16 of section 92. The observation was not material to the question arising in that case, and it does not appear to their Lordships to be strictly accurate. It appears to them that the language of the exception in section 91 was meant to include and correctly described all the matters enumerated in the sixteen heads of section 92, as being, from a provincial point of view, of a local or private nature. It also appears to their Lordships that the exception was not meant to derogate from the legislative authority given to provincial legislatures by those sixteen subsections, same to the extent of enabling the Parliament of Canada to deal with matters local or private in those cases where such legislation is necessarily incidental to the exercise of the powers conferred upon it by the enumerative heads of clause 91. That view was stated and illustrated by Sir Montague Smith in *Citizens’ Insurance Company of Canada v. Parsons*, 7 A.C. 108, 109, and in *Cushing v. Dupuy*, 5 A.C. 409, 415; and it has been recognized by this Board in *Attorney General of Ontario v. Attorney General for the Dominion* (1894), A.C. 189, 200.’

If the regulation of ‘through traffic’ on a connecting provincial railway, in the sense in which that phrase is used in section 8 of the Railway Act, is ‘necessarily incidental’ to the effective control of the traffic of the federal railway with which the connection exists, the power of parliament to enact section 8 appears to be strictly within and completely covered by Lord Watson’s language.

In several subsequent cases the power of parliament to pass incidental or ancillary legislation which touches one or other of the subjects assigned by section 92 to the provincial legislatures has been recognized.

Thus its right to prohibit contracts whereby railway companies seek to relieve themselves from liability to employees for injuries sustained through negligence or breach of statutory duty, though involving an interference with the civil rights of freedom of contract, was upheld in *Grand Trunk Railway Company v. Attorney General for Canada* (1907), A.C. 65. Lord Dunedin, in delivering the judgment of the Judicial Committee, says at page 68:—

There, true question in the present case does not seem to turn upon the question whether the law deals with a civil right—which may be conceded—but whether this law is truly ancillary to railway legislation. It seems to their Lordships that, inasmuch as these railway corporations are the mere creatures of the Dominion legislature, which is admitted, it cannot be considered out of the way that the Parliament which calls them into existence should prescribe the terms which were to regulate the relations of the employees to the corporation. It is true that, in doing so, it does touch what may be described as the civil rights of those employees. But this is inevitable, and, indeed, seems much less violent in such a case where the rights, such as they are, are, so to speak, all *infra familiam*, than in the numerous cases which may be figured where the civil rights of out-

SESSIONAL PAPER No. 20c

siders may be affected. As examples may be cited provisions relating to expropriation of land, conditions to be read into contracts of carriage and alterations upon the common law of carriers.

And the law in question was upheld as 'properly ancillary to through railway legislation.'

The right of Parliament in the exercise of its ancillary power to subject to its statutes creatures of a provincial legislature so far as 'reasonably necessary,' although in regard to the particular subject matter dealt with there should be inconsistent provincial legislation, is established in *Toronto Corporation v. Canadian Pacific Railway* (1908), A.C. 54, 58, 59; *City of Montreal v. Gordon*, Court Case 343.

Not only is Parliament empowered incidentally to control corporate bodies owing their existence to a provincial legislature, but the very property of a province itself has been held to be subject to the control and disposition of Parliament in the exercise of its jurisdiction to provide for the construction and operation of federal railways. *Attorney General for British Columbia v. Canadian Pacific Railway* (1906), A.C. 204.

The same principle was also illustrated in an early decision that Parliament has the power to impose upon provincial courts duties in connection with the carrying out and enforcement of its laws. *Valin v. Langlois*, 5 A.C. 115; 3 S.C.R. 1.

In cases of conflict between Dominion legislation and provincial legislation otherwise valid, the subordination of the latter is again recognized in the last pronouncement of the Judicial Committee upon the subject. *La Compagnie Hydraulique de St. Francois v. Continental Heat and Light Company* (1909), A.C. 194.

But while this incidental or ancillary jurisdiction of Parliament is fully established, no definition of what should be deemed 'necessarily incidental' or 'truly ancillary' is found in any decision binding on this court. No doubt this is partly due to the difficulty of framing a definition which would be at once sufficiently comprehensive and sufficiently restrictive, because what is incidentally necessary must vary in each case with the circumstances, and partly to deference to the advice given in *Citizens' Insurance Company v. Parsons*, 7 A.C. 109, and approved of by the Judicial Committee in later cases not to enter—

more largely upon the interpretation of the statute (the B.N.A. Act), than is necessary for the decision on the particular question in hand.

But in considering whether certain legislation should be deemed necessarily incidental or truly or properly ancillary, we receive some assistance from expressions of judicial opinion in regard to particular matters.

Thus in a comparatively early case the right of Parliament to interfere with many matters, otherwise exclusively within provincial jurisdiction, as incidental to bankruptcy legislation was recognized. *Cushing v. Dupuy*, 5 A.C. 409, 415. In reference with executions is instanced as a legitimate exercise of this ancillary power in *Attorney General for Ontario v. Attorney General for Canada* (1894), A.C. 189, and the Lord Chancellor (Herschell) says at page 200 that:—

A system of bankruptcy legislation may frequently require various ancillary provision for the purpose of preventing the scheme of the Act from being defeated.

As ancillary to its control of the banks and banking system of Canada, Parliament has the power to legislate in regard to the negotiability of warehouse receipts for banking purposes, although in such legislation an interference with civil rights is clearly involved. The authority to legislate in respect to banking transactions is plenary and

may be fully exercised although with the effect of modifying civil rights in the province. *Tennant v. Union Bank of Canada* (1894), A.C. 31, 47.

In *re Railway Act*, 36 S.C.R. 136, at page 142, Mr. Justice Davies says:—

1 GEORGE V., A. 1911

Exclusive legislative authority on railways, such as are here enumerated, being vested in the Dominion Parliament, that Parliament has, as a consequence, full and paramount power so to legislate upon such matter as fully, properly, and effectively to carry out the construction, management, and operation of these railways. In so legislating it matters not that the infringe upon the powers of legislation with regard to property and civil rights assigned to the provincial legislatures. Such invasion is admittedly necessary to enable Parliament properly and effectively to legislate. The main and controlling question is, therefore, whether the legislation in question can be said to be fairly and reasonably within the plenary and exclusive powers of the Dominion Parliament enabling it effectively to control the construction, management, and operation of the classes of railways excepted from subsection 10 of section 92 and embraced within subsection 29 of section 91. I think it may be fairly so held.

In *City of Toronto v. Grand Trunk Railway Company*, 37 S.C.R. 232, the same learned judge quotes as the equivalent of 'necessarily incidental and ancillary' the phrase used by Osler, J. A., in *re Canadian Pacific Railway Company and York*, 25 Ont., A.R. 65, 72,—'eminently germane, if not absolutely necessary.'

In the latter volume, at page 407, is reported an unanimous decision of the Ontario Court of Appeal that Dominion legislation declaring a federal railway company liable 'for the full amount of damages sustained' by reason of a breach of statutory duty is *ultra vires* and entitled an employee, or, if he be killed, his relatives to recover such damages where the breach of duty is that of a fellow employee, notwithstanding the limitation imposed by the provincial Workmen's Compensation Act. Burton, C.J.O., says at pages 410-411:—

I think such a power is incident to the general legislation entrusted to them (The Dominion Parliament) to construct and deal with such undertaking and ought not to be restricted in the way suggested.

In *McArthur v. Northern Pacific Junction Railway Company*, 17 A.R. 86, Burton, J.A., says, at page 11:—

It must be clear, apart altogether from authority, that when power is given to the particular legislature to legislate on a certain subject, such power includes all the incidental subjects of legislation which are necessary to carry it into effect.

And Osler, J.A., says, at page 125 that legislation conferring a right of action for damages arising from the cutting of timber upon a plot of land of limited width, on either side of a federal railway, owned by the Crown, but under timber license, is

well within the competence of Parliament to pass in order to legislate generally and effectually on a subject within its exclusive powers, even though it may to some extent trench upon the subject of property and civil rights.

In *Citizens' Insurance Company v. Parsons*, 4 S.C.R. 25, Ritchie, C.J., said, at pages 242-3:—

The Dominion Parliament would naturally have the right to interfere with property and civil rights in so far as such interference may be necessary for the purpose of legislating generally and effectually in relation to matters confided to the Parliament of Canada.

The learned chief justice repeated this statement in the *Queen v. Robertson*, 6 S.C.R. at page 111, and at page 139, Fournier, J., said:—

dans une cause assez récente, j'ai eu occasion de dire, et je le répète, que le gouvernement fédéral a, sans doute, le pouvoir de toucher incidemment à des matières qui sont de la juridiction des provinces. Mais dans mon opinion, ce pouvoir ne s'étend pas au delà de ce qui est raisonnable et nécessaire à une législation ayant uniquement pour but le légitime exercice d'un pouvoir conféré au gouvernement fédéral.

SESSIONAL PAPER No. 20c

I extract the following passage from the judgment of Rose, J., in *Doyle v Bell*, 11 Ont. A.R. 325, at page 335:—

I do not understand by the use of the word necessary, as found in various decisions and text books, that it is meant to lay down the doctrine that to bring within the powers of the Dominion legislature any provision of any enactment respecting a subject within the exclusive jurisdiction of such legislature, and which provision might affect civil rights, it must necessarily appear that without such provision it would be impossible to carry into effect the intentions of the legislature, or that probably no other provision would be adequate. On the contrary, it seems to me that if such provision might, under certain circumstances, be beneficial and assist to more fully enforce such legislation, then it must, at all events on an appeal to the courts, be held to be necessary, that is, necessary in certain events. Surely the legislature must be allowed some and, in my opinion, a very wide discretion as to the mode of enforcing its own enactments. It cannot be that the courts are to sit in judgment on the exercise of such discretion and dictate to the legislature whether they shall adopt this or that mode, because in the opinion of the courts one mode is the more convenient or better, or at least as well adapted to effect the purpose of the legislature.

In delivering the judgment of the Court of Queen's Bench in *Macdonald v. Riordan*, Q.R., 8 Q.B. 555, the late Mr. Justice Wurtele expressed views which would restrict the incidental jurisdiction of Parliament within very narrow limits. The judgment of the Court of Queen's Bench that Parliament had the right to legislate as to the disqualification of the directors of federal railway companies was affirmed in this court (30 S.C.R. 169), and as the decision is reported 'for the reasons given in the court appealed from.' But I cannot think that this court meant to adopt or to endorse the views of the learned Quebec judge upon the limitations of the ancillary legislative jurisdiction of Parliament.

I fully recognize that, as stated by Palmer, J., in *Attorney General of Canada v. Foster*, 31 N.B.R. 153, at page 164:—

Where the line of necessity is to be drawn in each particular case is the great difficulty that lawyers have to contend with when expounding our constitution. It must, I think, be determined by a consideration of the general scope of the legislation called in question. There must be a reasonable limitation of its encroachment upon subjects that are exclusively within the power of the other legislature.

Nevertheless, Lord Hobhouse says, in the *Parsons* case, 7 A.C., at pages 108-9:—

In these cases it is the duty of the courts, however difficult it may be, to ascertain in what degree and to what extent authority to deal with matters falling within these classes of subjects exists in each legislature, and to define in the particular case before them the limits of their respective powers.

Having regard to the general tenor of the authorities to which I have referred, it is clear that when, in order to make effective and to fully carry out the object of substantive legislation upon one of the subjects enumerated in section 91, it becomes necessary to assert and exercise ancillary powers which trench to some extent upon the domain assigned to provincial legislation, Parliament possesses these power. In determining whether particular legislation is or is not within them 'absolute necessity' is not the test; it is rather 'reasonable necessity.' Is the authority to pass such legislation requisite 'to prevent the scheme of the (substantive) Act from being defeated'; to permit of a 'plenary' exercise of a power expressly conferred; to allow Parliament to exercise 'its full and paramount power so to legislate upon' the railways enumerated 'as fully and effectively to carry out the . . . operation of these railways'; to provide for matters 'eminently germane if not absolutely necessary' to legislation upon an enumerated subject; to cover 'incidental subjects of legislation upon an assigned subject, to ensure that Parliament may 'legislate gener-

1 GEORGE V., A. 1911

ally and effectually on a subject within its exclusive powers to make provisions just and reasonable and necessary'; in legislating for a purpose within 'the power conferred on the federal government'?—can this legislation 'be said to be fairly and reasonably within the plenary and exclusive powers of the Dominion Parliament enabling it effectively to control the . . . operation of the classes of railways' under its jurisdiction?—these are criteria indicated in the cases to which I have referred by which the reasonable necessity and the truly ancillary character of incidental legislation may be tested.

The late Mr. Justice Rose would have supported such legislation if beneficial and of assistance in more fully enforcing legislation respecting a subject within the exclusive jurisdiction of Parliament. The legislation now before us, however, appears to answer the more conservative judicial tests which I have mentioned.

In considering the necessity for federal control of 'through traffic,' it is well to have in mind that section 8 of the Railway Act applies to the great railway systems of Canada and the local lines connecting therewith, as well as to such railways as those now before the court; and that 'traffic' includes freight as well as passenger traffic. One legitimate purpose of the Railway Act of Canada is to prevent undue discrimination in rates in respect of traffic upon railways under federal control when carried under similar conditions and between points similarly situated. If federal railway companies may, indirectly and through the instrumentality of distinct provincial corporations operating local connecting railways, defeat the purpose of this federal legislation against undue discrimination, it would seem that in respect to federal control in order to 'prevent the scheme of the Act being defeated.'

For instance, point A is on 'The Transcontinental'—a through federal railway connecting at point B with 'The Dominion'—a federal branch line controlled by an entirely independent company, upon which is situate point C; at point B the Transcontinental also connects with 'The Provincial,' a local railway operating under provincial incorporation, but controlled by the interests which control the Transcontinental. On the Provincial is situate point D, equi-distant with point C from point B. If this provincial railway should not be subject to federal control in respect to 'through traffic,' the rate between points A and D might, without any direct discrimination on the part of the Transcontinental, be considerably greater than the rate between points A and C in respect of the same class of traffic. A 'through rate' might be refused between the former points because the provincial company would not make a 'joint tariff'; or an uncontrolled charge by the provincial company between points B and D might result in a gross case of discrimination in rates between point A and the equi-distant points C and D.

It may not be absolutely necessary to the existence and operation of federal railways that such discrimination should be prevented, but it is certainly reasonably necessary to the satisfactory management and control of traffic upon them that such matters should be subject to efficient regulation. Otherwise, as in the illustration given, the interests controlling a federal railway might be in a position, through the medium of a connecting provincial railway also under their control, to thwart the purpose of unquestionably valid Dominion legislation against unfair discrimination. The plenary exercise of the power to legislate in regard to federal railways would, therefore, seem to embrace the control of provincial railways in respect of 'through traffic,' and it can scarcely be gainsaid that legislation for the regulation of such 'through traffic' is 'eminently germane, if not absolutely necessary' to legislation in regard to federal railways themselves.

Again, for certain classes of through perishable freight traffic—*e.g.* fish, fruit, dairy products and meat—it may be essential that there should not be transshipment *en route* and specially constructed cars may be required. Should the provincial under control independent of the Transcontinental refuse to haul to their destination on its line cars of the Transcontinental, this traffic, to and from points on the provincial, might be seriously interfered with, if not destroyed. Moreover, refusal by the pro-

SESSIONAL PAPER No. 20c

vincial to co-operate at the point of connection with the Transcontinental in the transfer of such cars from one road to the other might create difficulties and inconveniences which would unduly impede the traffic. Cars specially constructed for certain kinds of traffic and of which the supply may be limited might be improperly detained upon the Provincial and grave delay and inconvenience be thus caused to shippers as well as loss of business to the federal railway.

Cars employed for the traffic in fish, meat, dairy products and fruit, require to be 'iced' efficiently and at regular intervals. By slight neglect in this connection serious damage might be caused. Yet, unless the Dominion Railway Commission has some control over 'through traffic' after it leaves the federal railways and before it reaches them, it might be extremely difficult, if not impossible, to secure satisfactory regulation in regard to such matters as 'icing.'

Many other difficulties, with which nothing but a single controlling power can be relied upon to cope effectively and satisfactorily, might, no doubt, be suggested by experienced railwaymen. But these illustrations suffice to demonstrate the reasonable necessity of federal control in respect to 'through traffic' over provincial railways which connect with federal railways.

It may be suggested that the same purpose could be accomplished by joint or concurrent legislative action by Parliament and the provincial legislature. There is no such legislation; and if an attempt were made to arrange for it, there is no certainty that the views of the two legislative bodies would be the same. Again, if the Dominion Railway Commission and a provincial railway commission were each empowered to deal with such matters in regard to federal and provincial railways respectively, there would be no assurance that the standards of both would be alike or that joint action would be practicable; and if the authority were divided only joint action could be effective. At all events, the existence or non-existence of federal legislative jurisdiction cannot depend upon these considerations.

Again it is urged that such power on the part of Parliament or its creation, the Dominion Railway Commission, would be open to abuse and that, in the guise of regulations in respect of 'through traffic,' a provincial railway might be subjected to interference in regard to its rolling stock, its time schedules, its very rails themselves, their gauge and their weight, such as would virtually render it extremely difficult for the provincial authorities to exercise in regard to it that supervision to which they are entitled. Meeting a similar objection in the Fisheries case (1898), A.C. 700, Lord Herschell said, at page 713:—

The suggestion that the power might be abused so as to amount to a practical confiscation of property does not warrant the imposition by the courts of any limit upon the absolute power of legislation conferred. The supreme legislative power in relation to any subject-matter is always capable of abuse, but it is not to be assumed that it will be improperly used; if it is, the only remedy is an appeal to those by whom the legislature is elected.

And in the Bank of Toronto v. Lambe, 12 A.C. 575, Lord Hobhouse, speaking of the exclusive legislative powers of the provinces, said at page 586:—

To place a limit upon it because the power may be used unwisely, as all powers may, would be an error and would lead to insuperable difficulties in the construction of the Confederation Act.

And again, at page 587:—

If . . . on the due construction of the Act a legislative power falls within section 92, it would be quite wrong . . . to deny its existence because by some possibility it may be abused, or may limit the range which would otherwise be open to the Dominion Parliament.

The commission created by Parliament for the administration of its railway legislation should be relied upon to have due regard to the fact that the authority of Parliament to enact such provisions as are contained in section 8 of the Railway

1 GEORGE V., A. 1911

Act is restricted by the rule of reasonable necessity; and 'it must be assumed that' it 'will exercise the judicial powers which have been entrusted to it in a just and reasonable manner,' per Osler, J.S., in *re Canadian Pacific Railway Company and York*, 25 A.R. 65, 73. If it be open to inquiry here, I find nothing in the order now in appeal which indicates disregard by the Railway Board of this moral restriction upon its powers. The learned Ontario judge of appeal also says:—

I do not think that questions of *ultra vires* can be decided by unreasonable or extravagant suppositions.

Finally it was objected that the B.N.A. Act provides a means by which Parliament can assume control over the Montreal Street railway, viz., by declaring it to be a work for the general advantage of Canada, and that, the statute having provided this means for acquiring control, no other is open. But to declare a railway to be a work for the general advantage of Canada involves the assumption of complete and entire control of it by Parliament and in the case of many local railways which connect with federal railways that may be undesirable. Moreover, if this be a good ground of objection to the Dominion legislation in regard to 'through traffic,' it is equally applicable to the legislation in the same section in regard to control of the physical crossing or connection. It is inconceivable that whenever Parliament desires to compel a provincial railway crossing or connecting with a federal railway to conform to federal legislation in regard to the actual physical crossing or connection, it must assume complete control of the provincial railway by declaring it to be a work for the general advantage of Canada.

It should be noted that the section of the Railway Act now under consideration deals only with cases in which provincial railways actually connect with or cross federal railways. By this legislation Parliament does not purport to empower the Railway Commission to order a provincial railway to establish such a connection and it is not necessary now to consider whether Parliament could or could not confer such authority.

Counsel for the respondents contended that Parliament is empowered by residuum clause of section 91 of the B.N.A. Act to deal with 'through traffic' as a subject not covered by any of the several clauses of section 92. I think it must be admitted that, in the absence of federal legislation dealing with it, provincial legislation in regard to the carriage on a provincial railway of 'through traffic' received from or destined for a federal railway would be *intra vires* under clause 10 of section 92. If so, the right of Parliament to subject a provincial railway to federal legislation in respect of 'through traffic' cannot arise under the residuum clause of section 91. The Judicial Committee has said that legislation under this clause may not 'encroach upon any class of subjects which is exclusively assigned to provincial legislatures by section 92.' *Attorney General for Ontario v. Attorney General for Canada* (1896). A. C. 348, 360. Effective legislation in regard to the through traffic dealt with by section 8 of the Railway Act must trench upon the legislative authority of the provinces over provincial railways. *Ex hypothesi* legislation which does so encroach would seem to be *pro tanto* not within the residuum clause, which only confers power—

'to make laws for the peace, order, and good government of Canada in relation to all matters not coming within the classes of subjects by this Act assigned exclusively to the legislatures of the provinces.'

Moreover, the 'subjects' of railway legislation assigned respectively to Parliament and the provincial legislatures by the B.N.A. Act appear to be, to the former federal railways, as described in the exceptions to clause 10 of section 92; and to the latter local railways not within such exceptions. The division of jurisdiction seems to be according to the character of the railways and not according to the nature of the traffic carried or the business done. I therefore agree with Mr. Geoffrion

SESSIONAL PAPER No. 20c

that 'through traffic' can scarcely be regarded as a distinct subject of legislation not covered by any of the enumerated classes of either section 91 or section 92 and, therefore, within the legislative power of Parliament under the residuum clause.

But, if not within the residuum clause, and if, as seems clear, it be a matter requiring legislative regulation, since the provisions of section 91 and 92 exhaust the entire legislative field, except as to matters specifically covered by other sections of the Act—*e. g.* section 93—*Bank of Toronto v. Lambe*, 12 A.C. 518, 587, it follows that 'through traffic' must be within the legislative jurisdiction either of Parliament or of the local legislature or of both.

It seems clear that a provincial legislature cannot alone deal with this subject, because in no circumstances can it legitimately enact 'railway legislation' affecting a federal railway. *Madden v. Nelson & Fort Sheppard Railway Company* (1909). A.C. 626; *Canadian Pacific Railway Company v. The King*, 39 S.C.R. 476. Joint or concurrent legislative control, or joint or concurrent control by two bodies of commissioners, deriving power respectively from Parliament and the local legislature, would be so uncertain and subject to so many difficulties and contingencies that it might often result in failure to make provisions necessary for the regulation of such traffic. It seems to follow that only legislative jurisdiction vested exclusively in Parliament can effectually provide for 'through traffic.' This consideration confirms the conclusion that such jurisdiction has been conferred by the B.N.A. Act.

I am, therefore, of opinion that the provisions of the eighth section of the Railway Act should be held to be *intra vires* of Parliament as 'truly ancillary to (federal) railway legislation,' and 'properly ancillary to through railway legislation,' and as 'necessarily incidental to the exercise of the powers conferred by (one of) the enumerative heads of clause 91,' namely, the jurisdiction given by clause 29 of section 91 over railways excepted from clause 10 of section 92.

This appeal should be dismissed with costs.

IN THE SUPREME COURT OF CANADA.

Montreal Park and Island Railway Company v. City of Montreal.

The CHIEF JUSTICE.—In order that justice may be done it is necessary for the commissioners to consider the agreement under which the appellants obtained permission from the municipality of Notre Dame de Grace to enter upon its streets. We are not now called upon to decide what effect, if any, is to be given to that agreement in the consideration of the complaint made as to unjust discrimination; but it may serve to explain or justify the alleged difference in treatment complained of by the respondents and should, therefore, in that view not be overlooked. To meet the charge of unjust discrimination as between the two adjoining municipalities, the railway company attempted to show that the circumstances were not substantially similar by producing the agreement under which they had been permitted to enter and are now allowed to operate their railway upon the streets of Notre Dame de Grace, but the commissioners apparently were of opinion that the question was to be decided upon a bare consideration of the money fares charged. It is manifest, in my opinion, that the cost of construction and of operation are essential elements to be considered in the determination of the question as to whether the circumstances in which the company operated its road in the adjoining municipalities are substantially similar.

The appellants were required by the Parliament of Canada (6 Ed. VII., ch. 129, section 6) to obtain the consent of the municipality before they could enter upon its streets and the Quebec legislature (8 Ed. VII., chapter 97) approved of the by-law under which the railway company occupies those streets. To justify the charge of unjust discrimination between two adjoining municipalities on the ground of difference of treatment, it is necessary that all the circumstances connected with the cost

1 GEORGE V., A. 1911

of construction and operation of the railway should be considered and the conditions under which the railway obtained the permission from the municipality to enter upon the streets should be taken into account in this case as any other item in the cost of construction. If in the absence of an agreement the company had been obliged to make a large money payment to obtain the consent of the municipality to enter upon its streets, it is possible that the charge to the passengers to or from that municipality would have been the same as in the case of Mount Royal, and the reasonableness of the charge made to the residents of the latter municipality is not to be determined by a mere comparison with the charge made in the adjoining municipality without any knowledge of the circumstances under which the lesser fare is collected.

I am also of opinion that the Board had no power or authority to compel the Montreal Street railway, a provincial corporation, to enter into an agreement for the purpose of enabling the appellants to carry out the order made against them with respect to transfers to all points on all lines operated by the Montreal Street railway in the town of Westmount or the city of Montreal. The passenger in possession of a transfer goes from one train to another, that is to say, passes from a railway owned and operated by a corporation under the control of the Dominion Parliament to a railway owned and operated by a corporation under the control of a provincial legislature and the conditions under which the latter company is to carry its passengers from one point to another upon its own railway is not to be determined by the Dominion Board of Railway Commissioners.

GIROUARD, J.—It is admitted that the rate charged for railway transportation on the Island railway and the Montreal Street railway to passengers from Mount Royal Ward, in the city of Montreal, was greater than that charged to passengers from Notre Dame de Grace. The railway company met this complaint by tendering in evidence a contract with the town of Notre Dame de Grace by virtue of which passengers from that municipality became entitled to some favourable treatment. The Board, however, declined to consider this contract, holding that it was not proper for them to do so, being a private agreement, and ordered the stopping of the differential rates as amounting to ‘unjust discrimination,’ and finally ordered that the railway company do enter into an agreement with the Montreal Street railway for the purpose of removing the said discrimination.

The question is: Was the Board justified in refusing to take consideration of said contract?

In my humble opinion I think it was the duty of the Board to consider that contract. The contract was legal, being in fact expressly provided for by section 18 of the Cities and Towns Act, Q. 3 Ed. VII., c. 38. That statute empowers cities and towns to grant, under certain conditions, rights, franchise, and privileges as may be agreed upon, such as running rights over streets, exemption from taxation and exclusive franchise. The Island railway was, therefore, bound to get the consent of the municipality before acquiring these rights which were granted by the above contract. How can it be said that in such a case there can be ‘unjust’ discrimination?

Moreover, I do not understand how the Board can lawfully order the Island company, true a federal railway, to obtain from the Montreal Street railway, a provincial railway, an agreement to remove the said discrimination. In my humble opinion, railways like the street railway company are entirely out of the jurisdiction of the Railway Board.

I would, therefore, allow the appeal of the said Island Railway Company with costs against the city of Montreal.

DAVIES, J.—(dissenting):—

Appeal re ‘unjust discrimination’ in traffic.

This appeal from the order of the Board of Railway Commissioners arises out of an application made by the city of Montreal to the Board for an order directing

SESSIONAL PAPER No. 20c

the Montreal P. & I. railway to grant the same facilities in the way of services and operation, including the rates to be charged by it to the people residing in Mount Royal ward of the city, that it grants to the adjoining town of Notre Dame de Grace, which adjoins but is outside of the city limits.

After a lengthy hearing (the Montreal Street railway, a provincial road, having been made a party to the proceedings), the Board made the desired order, and further directed that with respect to 'through traffic' over the P. & I. railway and the Montreal Street railway, the latter road should enter into the necessary agreements with the Park & Island road to ensure the carrying out of the order.

Both railway companies have appealed to this court, the Street railway on the ground of want of jurisdiction in the Board to deal with 'through traffic' over its lines, and the P. & I. road, on the ground that in determining whether the rates charged by them to and from the Town of Notre Dame de Grace and those charged to and from Mount Royal Ward unjustly discriminated against the latter, the Board refused to consider an agreement made between the railway and Notre Dame de Grace fixing for certain considerations in the agreement expressed rates to and from that town.

On the appeal relating to the jurisdiction of the Board to deal with the question of through rates, I have already given my opinion affirming the Board's jurisdiction to which I need do no more than refer.

The question now for decision is a narrow though most important one.

The form in which it is put by the Board in granting leave to appeal on a matter of law is 'whether it is right or proper for the Board in making the said order to overlook the contract bearing date the 7th November, 1907, and made between the Montreal Park and Island railway and the municipality of Notre Dame de Grace.'

The contract in question was put in evidence at the hearing and is printed in the appeal case before us, but it is perfectly plain from the reasons given by the Chief Commissioner Mabee that the Board refused to consider that contract or give weight to it in making their order. I interpret the question of law we are asked to answer to mean as if put in this form, was the Board justified in refusing to consider that contract in determining the question of 'unjust discrimination'? And I would answer that it was. Mr. Geoffrion, in his argument before us, contended that it was a piece of evidence they were bound to consider and could not ignore though, of course, he admitted that the weight they should give it was entirely for the Board and could not be considered by us.

In order to determine then whether the Board could ignore the agreement, we must look at its terms and the conditions existing at the time it was entered into. The contention was that the right of the company to run its railway or tramway along the streets of any municipality was by the express terms of its charter made to depend upon the consent of the municipality being first obtained by by-law (see section 6 of 6 Ed. VII., cap. 129); and that in order to obtain such consent the company had been obliged to stipulate for the carriage of the passengers between Notre Dame de Grace and the city of Montreal at a certain rate. Such being the case, it was argued that while there might be discrimination between that agreed rate and the rate charged to and from the adjoining ward of the city, such discrimination was not 'unjust' and that it was 'unjust discrimination' alone which the statute provided against. I am not prepared to say that even if the company was obliged in order to obtain the privilege of running its railway along the streets of a municipality, to pay for the privilege, they could adopt such a mode of payment as would enable them to discriminate against an adjoining municipality in the matter of rates. They could pay for the privilege in cash or in any other way they agreed with the municipality, but they could not, in my opinion, adopt a mode of compensation for the concession of the right which they could afterwards invoke to excuse or justify either directly or indirectly, discrimination. So far as the municipality discriminated

1 GEORGE V., A. 1911

against was concerned, the discrimination was not the less unjust because the company chose to adopt this mode of payment for the privilege of laying down their rails in the streets and operating their road. The 315th section of the Railway Act, which governs the case, was enacted to secure so far as might be possible equality of rate under 'substantially similar circumstances and conditions.' The 4th subsection is peremptory: 'no toll shall be charged which unjustly discriminates between different localities.' Does the fact that instead of paying a round sum in cash or otherwise to one locality for the privilege of running its road over certain streets the company for reasons of its own agrees instead to charge a low toll or rate to and from that locality, justify it in refusing to give to an adjoining locality, other conditions being equal, the same rate, and in this way create a discrimination which as between the two localities is unjust. If cash was paid for the privilege, could they plead that in justification of the discrimination? If the cost of the building of the road to one locality exceeded that of the cost to another, could such excess in cost be advanced to justify the discrimination and prove it not to be unjust? Are these elements and facts which the Board have to inquire into any weight when determining what is 'unjust discrimination'? If they are, there is no end to the discrimination which companies might create and not contravene the Act. If it was otherwise held and if a company could refuse to one locality rates which they had conceded to another under substantially similar circumstances and conditions and make the granting of the lower rates dependent upon the locality granting concessions to them, it seems to me it would amount practically to a transfer to the company of the powers now vested in the Board of determining rates as between localities. I agree with the Chairman when he says 'we cannot take into consideration matters of that sort in the administration of this law.'

But apart from all that, I fail to find in the agreement put in evidence any such consideration paid by the company for the privilege of using the streets of Notre Dame de Grace. The agreement as to rates with the municipality of Notre Dame de Grace was not for the privilege simply or for that privilege at all. It was for an exclusive franchise for operating its road on the ground surface for passengers, freight, and mails, within the limits of the town for fifty years, and also for *exemption for ever* from payment of municipal taxes, which the town might at any time have power to levy on the company, its movable or immovable property or franchises, with certain limited and specified exceptions.

It was this *exclusive* privilege for half a century, and this *exemption for ever* from taxes, which the company was buying from the town and which formed the consideration for the rate or toll of five cents agreed upon. It was not the mere purchase of the consent required by statute for the laying of the rails. That statutory permission to use the streets simply for the running of the tramway does not appear on the face of the agreement to be part of the consideration at all (see section 7 of the agreement). It was the *monopoly* and the *exemption* the company was buying, something the Railway Act certainly was not passed to encourage and neither of which could be held to be a 'circumstance or condition,' which the Board should consider in determining the question of 'unjust discrimination.'

The municipalities which would grant similar monopolies and exemptions would, I presume, get in return the lower rates. Those that would refuse would have to pay the higher and so the unjust discrimination clause would be practically defeated. The Railway Board brought into existence to prevent, amongst other things, unjust discrimination was asked practically by giving weight to the agreement in this cause to sanction the practice.

I do not stop to inquire as to the legality of such an agreement by a municipality. It is said the agreement was subsequently validated by the local legislature. But if it was that would not justify it being invoked and given weight to by a Dominion Board acting under a Dominion Act in a proceeding to determine what

SESSIONAL PAPER No. 20c

was or was not 'unjust discrimination,' in rates or tolls upon railways as between different localities. Such validation if it took place goes no further than confirming an Act of the municipality which certainly without express legislative authority would be *ultra vires* the municipality.

Under the 77th section of the Act, the burden of proving that the lower toll was not unjust discrimination rests upon the company, and is not in my opinion discharged in any degree by showing that the lower rate was a consideration for a monopoly of railway privileges and an exemption from taxation purchased by the company from the locality to which they had granted such lower rate. It is to my mind impossible to conceive how the purchase of such a monopoly and exemption could operate to make that discrimination just which otherwise would be unjust. Neither the monopoly nor the exemption were necessary to the operation of the road. They were merely incidents the possession and enjoyment of which would make these operations more profitable for the company, but at the expense of the public, and the destruction of any possible competition.

My brother Idington has called my attention to a case reported in 26 Times Law Rep., p. 110, *Holwell Iron Co., Ltd., v. Midland Railway Company*. It was an appeal from a decision of the Railway & Canal Commissioners, reported 25 T.L.R. 158, and being a decision by the Court of Appeal confirming that of the commissioners is of course entitled to the greatest respect. The facts of that case were such as to make the decision of little service to us on this appeal. There an agreement was attacked which had been entered into forty years previously between the Railway Co., and the Stavely Hill Iron Co. The railway at that distant period wanted to acquire a strip of land running right through the property of the Stavely Company on which a private line was laid, and also other lines of the Stavely Company. It was obvious, as the Minister of Railways said, that the claim for severance would be enormous, unless provision was made for conveying coal and iron and other materials to and from the company's property on each side of the line. Accordingly the railway company, acting under special powers, purchased from the Stavely Company the land and railways in question, and all locomotives, engines, &c., belonging to the railways and used for the purposes of the company's business. The consideration was 29,788 pounds plus an agreement on the railway company's part to continue to efficiently work the whole of the traffic of or connected with the Stavely Company's business as it had previously been worked by the latter company. It was these terms which it was contended amounted to the railway company granting exceptional terms to the Stavely Company to the prejudice of the appellants. The question there determined involved the proper construction of section 2 of the Railway and Canal Traffic Act, 1888, providing against 'undue preference,' being given by a railway company to one *rival trader* as against another trader. The Court of Appeal hold that the inequality of rates complained of might be explained and accounted for by a fair and honest bargain the consideration for which had been full conveyed to and enjoyed by the railway company. The Minister of Railways was of the opinion that the only question of law open to the appellants was that the agreement was one which the commissioners could not look at because it was illegal and void, and that when once this point of law was decided in the negative, the commissioners should give it consideration. He winds up his opinion, however, with the following pregnant words:—'Nothing that I have said is intended to apply except to a case *where land is taken and arrangements are made for what is to be done on and with reference to the land so taken.*' As he had previously said: 'If (the agreement) only provides for certain services to be rendered by the railway company on land the subject matter of the agreement. It in no way resembles an agreement to purchase goods in return for future gratuitous services to be rendered by the purchaser to the vendor.'

Looking at the statute the court was there constructing and the special facts of the case on which the decision turned, I cannot say that it is an authority for one or

1 GEORGE V., A. 1911

other of the rival contentions in this appeal, though I think the principle underlying the decision to be gathered from the last few sentences of the opinion of the M.R., quoted by me above, supports the ruling in the case before us of the Board of Railway Commissioners.

For the reasons I have given I would dismiss this appeal with costs.

IDINGTON, J.—The decision in the Montreal Street Railway Company's appeal from the same order as made herein renders the question submitted rather of an academical character.

I should have preferred this decision postponed until the judgment passed upon by the court above is to be appealed.

We may assume that the Board has jurisdiction over this appellant but until we know whether or not our decision in the other case is to stand the conflicting considerations bearing upon the question asked are somewhat perplexing.

At the threshold stands the question of the validity of the contract between the two companies.

We have not had it argued in all its bearings and much less so in the new light our decision presents it.

For the reasons I have given in the other case I think it is valid. Amongst other reasons I have given is that which I find in an Act cited, but the view I present as derived therefrom was not touched in argument if I remember correctly.

Yet the Board held or assumed it invalid or to be ended in some way.

If ended, how can appellant, having doubtless contracted with Notre Dame de Grace on the faith of that contract continuing, be dealt with justly without an examination of the contract now in question and all that upon which it is founded.

Is the contract valid or is it invalid by reason of infringing the policy of the Railway Act? Or is subsection 7 of section 317 of the Railway Act, which in terms does not include contracts like this, to be taken as the boundry of that policy and comprehending everything of a contractual nature which is to be held prohibited and void?

The appellant is surely entitled to know on what ground the Board proceeds and if it declares the contract a violation of the Act, and hence invalid, and the franchise gone as an obvious result of illegality, the appellant may, when directed to equalize its rates or fares, prefer equalizing by levelling up rather than a general lowering.

Indeed it may be a financial impossibility to do otherwise.

The power given by 8 Edw. VII., chapter 97 (Quebec) validating the by-law of Notre Dame de Grace had, so far as the legislature could, authorized the contract with the appellant to grant the franchise.

The appellant had been given by 6 Edw. VII., chapter 129 (of Dominion) the right to run upon the streets of a municipality, but only by and with the latter's consent.

Is there any implication therein that the terms contained in such consent are authorized? In solving such a question the well known practice of engrafting on such consents specific contracts can hardly have been overlooked by Parliament.

I express no opinion. I merely suggest—Is there not an implication that Parliament has sanctioned what is now complained of?

Many other views occur to me, but in any way I can look I see no escape from a consideration of the agreement in order that justice be done.

It could never have been the purpose of Parliament to remove all inequality by violating manifest principles of justice.

Certainly the powers of the Board given in some cases to sanction inequality do not indicate that anything but justice, and not mere inequality, is to be the sole guide.

The case of the Holwell Iron Company v. Midland Railway Company, 101 L.T. 695, of which report has come to hand since argument herein suggests the way the

SESSIONAL PAPER No. 20c

Court of Appeal in England looked at an analogous case and statute, where the court was confined, as we are, to the mere issue of jurisdiction. What inference of fact the Board may draw we have nothing to do with.

I would allow the appeal without costs for the same reasons as in the other case.

DUFF, J.—I agree in the opinion stated by the Chief Justice.

ANGLIN, J. (dissenting).—By an order of the Assistant Chief Commissioner of the Board of Railway Commissioners for Canada, No. 7975, leave was granted to the Montreal Park and Island Railway 'to appeal to the Supreme Court of Canada from the order (No. 7405), dated May 4, 1909, upon the following question, which is hereby declared to be in the opinion of the Board a question of law, viz.: Whether it is right or proper for the Board in making the said order to overlook the contract bearing date the 7th day of November, 1907, and made between the said Montreal Park and Island Railway Company and the municipality of Notre Dame de Grace.'

The Railway Act (section 56, subsection 3) makes conclusive the opinion of the Board that any question, in regard to which leave to appeal is granted by it, is a question of law; and upon such leave being given the right of appeal is conferred.

The question, stated in the order granting leave above quoted, considered merely in itself, appears to be susceptible of more than one interpretation. It might refer to an entire exclusion of the contract as evidence, so that the Board would not be apprised of its nature and purport, or it might refer to a refusal by the Board, though fully apprised of the nature and terms of the contract, to treat its existence or the consideration upon which it is founded or the rights and obligations to which it gives rise as facts which should influence the Board in determining the issue of unjust discrimination with which they are dealing. I exclude accidental or inadvertent omission to take the contract into consideration as something which it cannot have been intended to submit, although the expression 'to overlook' is more often used to cover such a case than any other. An entire exclusion of the contract in the sense of a refusal to receive it in evidence, based upon its inadmissibility, would raise a question of law. But upon a determination by the Board, with the contract before it and full knowledge of its purport and effect, and of the circumstances in which it was entered into that no weight should be given to these facts or conditions in deciding whether there had or had not been unjust discrimination, a question of law cannot, I venture to think, arise, in view of the provisions of section 318 that 'the Board may determine as questions of fact whether or not traffic is or has been carried under substantially similar circumstances and conditions, and where there has in any case been unjust discrimination, &c.' Nevertheless if the question upon which the Board intended to give leave to appeal be whether it has the right so to determine, the statute apparently precludes our treating it as a question of fact notwithstanding that, under section 318, an issue of unjust discrimination is to be disposed of as a question of fact.

Upon an examination of the record, I find that the agreement referred to was admitted in evidence. I find that its terms were discussed and the report of the proceedings leaves no doubt in my mind that the Board was fully apprised of those terms and of the circumstances in which the contract was made. The remarks of the learned Chief Commissioner in disposing of the complaint of unjust discrimination make it abundantly clear to me that he was cognizant of all these matters. It is equally clear that he determined that proof of the existence of these facts and conditions would not aid the railway company in establishing to the satisfaction of the Board that the discrimination which had been shown or admitted was not unjust within the meaning of the Railway Act. It would, therefore, seem that the question upon which it was really intended to give leave to appeal was not whether the contract and the circumstances surrounding it should be excluded as inadmissible evidence, but was in reality whether, having before it the contract and all necessary and proper information and evidence in regard thereto, it was right and proper for the Board to decide that no

1 GEORGE V., A. 1911

weight or effect should be given to these facts and circumstances in the determination of the question whether the discrimination is or is not unjust in this particular case.

That the evidence in question was admissible, if for no other reason, to enable the Board properly to consider whether or not the special rates accorded by the appellants to passengers to and from Notre Dame de Grace are in the interests of the public, I entertain no doubt. If the giving of these special rates was not 'necessary for the purpose of securing . . . the traffic in respect of which' they are given, so as to bring this case within section 319, it seems obvious that there may be cases covered by that section, which closely resemble this case. It is, I think, impossible to say that in no circumstances and under no conditions can an agreement for special rates be in the public interest, or be something which may affect the justice or injustice of a discrimination. But the admissibility of such evidence is one matter; the weight to be attached to it, or whether it is entitled to any weight in any particular case are very different matters; and it is because of the disregard of the contract by the Board in determining not to give it any weight in this case, that, if at all, the appellant may have ground for complaint.

Again, the words 'whether it is *right* or proper, &c.,' present an ambiguity and a difficulty. If they mean whether the Board had the right, in the sense of the power, to disregard these matters as not entitled to weight in determining the justice or injustice of the particular discrimination (which may perhaps be regarded as a question of law) in view of the provision of section 318 that question must, I think, be answered affirmatively. But if, as was argued, it was intended that this court should be asked to say whether, having the power so to deal with this evidence, the Board properly exercised that power and properly determined that these matters were not entitled to weight in disposing of the issue before it, I am, with respect, unable to conceive how that can be regarded as a question of law. The weight and effect which should be given by the Board to any evidence adduced before it upon an issue of unjust discrimination must in view of the provisions of section 318 be always a question of fact. I think we should therefore assume that the Board did not intend to give leave to appeal upon this possible aspect of the question stated in the order.

To summarize: If, notwithstanding that the contract was in fact admitted in evidence and its terms and the circumstances in which it was made were apparently placed before the Board and were considered by it for the purpose of determining whether any weight should in the circumstances of this case be attached to them, the question for our determination is whether this evidence was or was not admissible, and if I thought that what had taken place was really an exclusion of the evidence as irrelevant, I would be of opinion that this appeal should be allowed. But having regard to the proceedings before the Board and to the remarks of the learned Chief Commissioner, I find it impossible to take this view of the matter. I, therefore, conclude that the real question submitted is whether, as a matter of law, the Board in dealing with this evidence, which was before it, had the right to 'overlook' or disregard it, in the sense of putting it out of consideration, because it was in their opinion, in the circumstances of this case, not entitled to weight; and to that question, in my opinion, having regard to section 318 of the Act, the answer must be that in so doing the Board was within its rights.

As already stated, I cannot conceive that the Board intended to submit for our consideration the question—what weight, if any, should be given by it to such a contract as a circumstance affecting an issue of unjust discrimination; and as this is apparently not necessarily the construction of the question as stated, I think we should not assume that this was the question upon which the Board gave leave to appeal as a question of law. Neither do I understand that we are asked to determine as an abstract question, whether or not, under any or all circumstances, the policy of the Railway Act requires that the Board should refuse to attach any weight to an agreement between a railway company and a municipality which provides for special rates

SESSIONAL PAPER No. 20c

on the ground that its existence can in no circumstances have any bearing upon an issue of unjust discrimination. We are dealing with an appeal in a concrete case, and I confine my expression of opinion entirely to that case.

For these reasons I would dismiss this appeal with costs.

Accepting the above view the Board has been compelled to decline consideration of several cases arising out of through traffic over provincial roads. A manufacturer in Quebec complained that he was unable to get cars. He was located upon a provincial railway, his traffic went from this railway upon a road subject to federal jurisdiction to destination. It was felt that, under the judgment of the Supreme Court, no relief could be afforded.

It might be added that possibly the question as framed in the appeal of the Montreal Park and Island Company was rather unfortunate. The real question was not whether it was right and proper for the Board to overlook the contract of November 7, 1907, but whether it was binding upon the Board, in other words whether the contract had tied the hands of the Board in dealing with the situation as it affected the public. The contract was not 'overlooked,' it was considered by the Board and the opinion expressed that the Board had authority to dispose of the contest without regard to the contract. The same thing had been held by the Board in the judgment in connection with the Toronto viaduct case and that view was sustained by the Supreme Court.

IN THE SUPREME COURT OF CANADA.

Friday, the eleventh day of March, A.D. 1910.

PRESENT:

The Rt. Hon. Sir CHARLES FITZPATRICK, K.C.M.G., *Chief Justice.*

The Hon. Mr. JUSTICE GIROUARD,

The Hon. Mr. JUSTICE DAVIES,

The Hon. Mr. JUSTICE IDINGTON,

The Hon. Mr. JUSTICE DUFF,

The Hon. Mr. JUSTICE ANGLIN.

BETWEEN

The Montreal Park and Island Railway Company
(Respondents before the Board of Railway Commissioners)
Appellants;

AND

The Corporation of the City of Montreal
(Complainants before the Board of Railway Commissioners)
Respondents;

AND

The Montreal Street Railway Company
(Respondents before the Board of Railway Commissioners)

The above named appellants having obtained leave by order of the Board of Railway Commissioners for Canada, No. 7975, dated the first day of June, in the year of Our Lord one thousand nine hundred and nine, to appeal to this court on a question which in the opinion of the said The Board of Railway Commissioners is a question of law, from the order of the said The Board of Railway Commissioners for Canada, No. 7045, dated the fourth day of May, in the year of our Lord one thousand nine hundred and nine, whereby it was ordered that the above named appellants do grant the same facilities in the way of service and operation, including the rates to be charged by them to the people residing in Mount Royal ward in the city of Montreal that they grant to the people residing in the town of Notre Dame de Grace; and that they forthwith enter into the necessary agreements for the purpose of removing the unjust discrimination complained of by the corporation of the city of Montreal in

1 GEORGE V., A. 1911

the above matter; and that with respect of through traffic over the Montreal Street Railway, the Montreal Street Railway Company do enter into any agreement or agreements that may be necessary to enable the appellants to carry out the provisions of the said order, and the said appeal having come on to be heard before this court on the sixteenth day of December, in the year of our Lord one thousand nine hundred and nine, in the presence of counsel as well for the appellants as for the respondents, whereupon and upon hearing what was alleged by counsel aforesaid this court was pleased to direct that the said appeal should stand over for judgment and the same coming on this day for judgment this court did order and adjudge that the said appeal should be and the same was allowed, and that the said order, No. 7045, of the Board of Railway Commissioners for Canada, dated the fourth day of May, in the year of our Lord one thousand nine hundred and nine, as against the above named appellants should be and the same was reversed and set aside.

And this court did further declare that the said The Board of Railway Commissioners for Canada in making the said order, No. 7045, of the fourth day of May, in the year of our Lord one thousand nine hundred and nine, erred in refusing to admit as evidence the contract bearing date the seventh day of November, in the year of our Lord one thousand nine hundred and seven, and made between the above named appellants and the municipality of Notre Dame de Grace, and did order and adjudge the same accordingly.

And this court did further order and adjudge that the matter of the complaint of the above named respondents of the first day of February, in the year of our Lord one thousand nine hundred and nine, in respect of which the said order of the Board of Railway Commissioners for Canada, No. 7045, dated the fourth day of May, in the year of our Lord one thousand nine hundred and nine was made, should be and the same was referred back to the said The Board of Railway Commissioners for Canada for a re-hearing.

And this court did further order and adjudge that the said respondents should and do pay to the said appellants the costs incurred by the said appellants in this court.

Certified,

(Signed)

E. R. CAMERON,

Registrar

Entered Fol. 169, J.B. No. 6, J.L.

IN THE SUPREME COURT OF CANADA.

Friday, the eleventh day of March, A.D. 1910.

PRESENT:

The Rt. Hon. Sir CHARLES FITZPATRICK, K.C.M.G., *Chief Justice*

The Hon. Mr. JUSTICE GIROUARD,

The Hon. Mr. JUSTICE DAVIES,

The Hon. Mr. JUSTICE IDINGTON,

The Hon. Mr. JUSTICE DUFF,

The Hon. Mr. JUSTICE ANGLIN.

BETWEEN

The Montreal Street Railway Company

(Respondents before the Board of Railway Commissioners)

Appellants;

AND

The Corporation of the City of Montreal

(Complainants before the Board of Railway Commissioners)

Respondents;

AND

The Montreal Park and Island Railway Company

(Respondents before the Board of Railway Commissioners)

SESSIONAL PAPER No. 20c

The above-named appellants having obtained leave by order of the Board of Railway Commissioners for Canada, No. 7976, dated the eighth day of June, in the year of our Lord one thousand nine hundred and nine, to appeal to this court on a question which in the opinion of the said the Board of Railway Commissioners for Canada is a question of law, from the order of the said the Board of Railway Commissioners for Canada, No. 7045, dated the fourth day of May, in the year of our Lord one thousand nine hundred and nine, whereby it was ordered that the Montreal Park and Island Railway Company do grant the same facilities in the way of service and operation including the rates to be charged by them to the people residing in Mount Royal ward in the city of Montreal that they grant to the people residing in the town of Notre Dame de Grace; and that they forthwith enter into the necessary agreements for the purpose of removing the unjust discrimination complained of by the corporation of the city of Montreal in the above matter; and that with respect to through traffic over the Montreal Street Railway the above named appellants do enter into any agreement or agreements that may be necessary to enable the Montreal Park and Island Railway Company to carry out the provisions of the said order, and having also obtained leave by order of the Hon. Mr. Justice Duff, one of the judges of this court, dated the twenty-eighth day of June, in the year of our Lord one thousand nine hundred and nine, to appeal to this court on a question of jurisdiction from the said order of the Board of Railway Commissioners for Canada, No. 7045, dated the fourth day of May, in the year of our Lord one thousand nine hundred and nine, and the said appeal having come on to be heard before this court on the fifteenth and sixteenth days of December, in the year of our Lord one thousand nine hundred and nine, in the presence of counsel as well for the appellants as for the respondents, whereupon and upon hearing what was alleged by counsel aforesaid this court was pleased to direct that the said appeal should stand over for judgment and the same coming on this day for judgment this court did declare that the Board of Railway Commissioners for Canada had no jurisdiction to make the said order, No. 7045, dated the fourth day of May, in the year of our Lord one thousand nine hundred and nine, against the said appellants and did order and adjudge the same accordingly.

And this court did further order and adjudge that the said appeal should be and the same was allowed and that the said order of the Board of Railway Commissioners for Canada, No. 7045, dated the fourth day of May, in the year of our Lord one thousand nine hundred and nine, as against the above-named appellants, should be and the same was reversed and set aside.

And this court did further order and adjudge that the said respondents should and do pay to the said appellants the costs incurred by the said appellants in this court.

Certified,

(Sgd.) E. R. CAMERON,

Registrar.

Entered Fol. 167, J.B. No. 6 J.L.

EXPRESS TRAFFIC INQUIRY.

Much progress has been made in this matter during the year and unless unforeseen delays occur it is hoped that most of the questions under discussion and consideration will soon be disposed of.

Regarding the position of the Railway Act as it refers to express companies, the following is a judgment delivered by the Board in the month of May, 1909, upon an application made by the Commercial Acetylene Company against the Canadian and Dominion Express Companies for an order directing the express companies, operating in Canada, to receive a certain commodity manufactured by the applicants:—

1 GEORGE V., A. 1911

The CHIEF COMMISSIONER.—The applicants ask for an order compelling the express companies operating in Canada to accept and carry a commodity manufactured by them, consisting of gas absorbed in asbestos encased in copper or metal tanks. The companies have refused to carry these tanks upon the ground that they are dangerous, or liable to explode, but in the view we take of the matter it is not necessary to deal with the validity of these objections, or with the nature of the contracts between the express companies and the railway companies.

The fundamental question is whether the Board has power to require express companies to carry any class of commodity they object to, or refuse to accept.

The group of clauses from section 348 to 354 of the Railway Act are, with section 17, sub-section 6 and section 2, sub-section 9, the provisions relating to express companies, and show the control that Parliament has conferred upon the Board over them. Is there anything in these sections that empowers the Board to require these companies to grant the applicant's request? The main group of clauses is headed 'Express Tolls,' and generally speaking they refer chiefly to tariffs, and conditions and contracts limiting liability for carriage, and as to these matters all the provisions of the Act relating to freight tolls and tariffs, so far as applicable, are to apply to express companies.

Section 352 provides that the Board may by regulation, or in any particular case, prescribe what is carriage or transportation of goods by express.

Section 353, sub-section 3 (b) provides that the Board may in any case or by regulation 'prescribe the terms and conditions under which goods may be collected, received, cared for or handled for the purpose of sending, carrying, or transporting them by express, or under which goods may be sent, carried, transported or delivered by express by any such company, person or corporation,' and it was upon this section that the principal argument was based in support of the Board's jurisdiction. It does not seem to us that this can fairly be read to mean more than that when an express company decided to carry any particular class of goods, the Board may prescribe the terms and conditions under which the collection, receipt, care for and handling of the same shall take place, and this view is strengthened when this clause is found among a group of sections that do not seem to be dealing with anything except tariffs, tolls and contracts or conditions limiting liability.

The 'terms and conditions,' governing the collection, receipt and handling of goods that the Board might deem proper to impose under this sub-section, relate to the extent to which liability may be impaired, restricted or limited under sub-section 3 (a).

The Act does not confer upon the Board as wide jurisdiction over express companies as it does over railway companies, and of course jurisdiction is limited to such matters that the Act plainly and clearly covers. There should be no straining after jurisdiction, and as we read this clause it is limited as above indicated.

It was also argued that section 333 (1) gave jurisdiction, but we think this relates only to contracts 'limiting liability,' after a company has decided to accept or collect for carriage any particular commodity.

Whether it was the intention of Parliament to limit the control of express companies to tariffs, tolls, conditions and contracts or not, it seems to us the above is the only fair reading of the Act, and we are of opinion that express companies are at liberty to exercise their own discretion in refusing to carry by express any particular commodity.

The Assistant Chief Commissioner and Mr. Commissioner McLean concurred.

SESSIONAL PAPER No. 20c

RESUSCITATION FROM APPARENT DEATH CAUSED BY ELECTRIC SHOCK.

The Board having had its attention drawn by its electrical engineer to accidents caused by electric shock, in which the persons receiving the shock lapsed into insensibility and were in danger of death unless efforts were immediately made at resuscitation, decided to send a circular letter to all companies using electricity, calling their attention to the matter with a view to preventing, as far as possible, the danger referred to. The following was the circular sent:—

Circular No. 37.

May 3, 1909.

Resuscitation from Apparent Death from Electric Shock.

Under direction of the Board, I inclose you herewith a copy of the report of the Board's Electrical Engineer, dated the 29th of April, 1909; and am directed to ask what steps have been taken by your company to notify its men in regard to the methods for resuscitation as suggested by the electrical engineer. I am also directed to state that supplement to the *Electrical World and Engineer*, dated September 6, 1902, contains full instructions in the matter.

A. D. CARTWRIGHT,
Secretary.

April 29, 1909.

G. A. MOUNTAIN, Esq.,
Chief Engineer Railway Commission.

DEAR SIR,—

Re Resuscitation from Apparent Death from Electric Shock.

Yesterday while inspecting a wire crossing at the Elgin Street subway at Brantford, Ontario, I learned from the Grand Trunk Company's section foreman some particulars regarding the death by electric shock of one of their sectionmen on April 8 last.

The foreman assured me that a small burn on one finger of the deceased was the only visible sign of injury on the latter's body. In reply to my inquiry as to whether any one had attempted to revive the deceased by means of artificial respiration, the foreman replied, 'Oh, no, the doctor said he was dead, and his body was carried away.' I proceeded to explain to the foreman that many persons shocked into insensibility—and apparently dead—had been revived by the same method that is employed to revive persons apparently dead from drowning, and, that so many cases of complete revival were well known that it was always worth trying, and trying constantly for several hours, to revive any one who had been shocked into insensibility no matter how many pronounced the victim dead. To my astonishment the foreman replied, 'I guess you are right, because one of our gang used to be a lineman and he had some fingers burnt off. He says he was stone dead for two hours, but they brought him back.' With this knowledge so close at hand it seems very strange that no attempt was made to revive the man above referred to.

One of the first things I did when I became connected with the Department of Railways and Canals three years ago was to have copies of an illustrated sheet, entitled, 'Resuscitation from apparent death from electric shock,' distributed amongst the various places belonging to the department where electrical energy was generated, received, or used.

I am attaching hereto a copy of this sheet, in view of the circumstances outlined above, it is, in my opinion, very desirable to have the railway companies directed to supply the information contained in this sheet to all their employees without delay.

1 GEORGE V., A. 1911

An unfortunate circumstance in connection with this question is that some medical men—apparently not familiar with the fact that many persons have been revived who would otherwise have died—actually interfere and deter willing persons in their well-meant attempts by announcing that the victim is dead.

On the other hand, generally speaking, the medical profession now recognizes the value of the means described and illustrated in the attached sheet.

Yours truly,

(Signed) JOHN MURPHY,
Electrical Engineer.

INTERSWITCHING.

This matter, as stated in the last report, was dealt with under order of the Board dated July 8, 1908, order No. 4988, which came into effect on September 1, 1908. The question as to the intent and effect of the general interswitching order having been raised by the Canadian Pacific Railway Company and the matter having been the subject of considerable correspondence between the Board and the parties interested, the Board for the purpose of making clear the said order, on January 21, 1910, issued the following circular:—

January 21, 1910.

Circular No. 45.

File 6713, re Interswitching.

Differences of opinion appear to have arisen between some of the railway companies and the public as to the scope of the order of the Board, No. 4988, dated July 8, 1908, known as the general interswitching order, and judging from their interswitching tariffs, these differences do not seem to be non-existent as between the companies themselves.

While of the opinion that the language of the order is clear beyond misinterpretation, the Board declares that, for the purposes of the order,—

(a) The maximum interswitching distance is unqualified, and means, as stated, ‘any distance not exceeding four miles . . . from the nearest point of interchange,’ regardless of the location of the point of interchange, or of station yard limits, or any other limits or boundaries.

(b) Clause 10 of the order refers, as stated, ‘to ordinary freight service from station to station,’ that is, traffic originating at the common point, as distinguished from interswitched joint traffic.

By order of the Board.

A. D. CARTWRIGHT,
Secretary.

JUDGMENTS OF THE BOARD.

A summary of the principal judgments delivered by the Board for the year ending March 31, 1910, prepared by the law clerk, Mr. A. G. Blair, will be found under Appendix ‘C.’

ROUTINE WORK OF THE BOARD.

RECORD DEPARTMENT.

As stated in the last annual report, this department was placed in charge of Mr. E. W. McNeill, as record officer on March 1, 1909, who has discharged his duties in an efficient and capable manner, more especially when it is borne in mind that the work in connection with the record department has almost doubled in the last year, as will be seen by reference to the table submitted below. A statistical branch has been formed in connection with the record department, and Mr. F. R. Demers has been given special charge over this work, he being given the title of 'Statistical Clerk' and having compiled a table classifying the applications, complaints, &c., made to the Board under the various sections of the Railway Act. This classification will be found under Appendix 'J.'

No reference has been made in the table given below to the outgoing letters, circulars, &c., but it may be stated that these number for the year ending March 31, 1910, 33,337, being an increase over the previous year of 9,807. The services of an additional clerk were required, and Mr. D. H. Chambers has been temporarily employed in this capacity.

The following is a table of formal applications, complaints, reports of accidents, reports on crossings, and reports on conditions of stations for the year ending March 31, 1910. With regard to reports on stations, there are, it might be stated, in the operating department some 700 reports, of which files have not been made, it being found more practicable to have these reports filed with the operating department and so relieve the Board's records to that extent:—

No. of applications made.. . . .	3,921
No. of complaints (informal).. . . .	494
No. of reports of accidents.. . . .	892
No. of reports of crossings.. . . .	331
No. of reports on condition of stations.. . . .	487
Total No. of files made during the year ending March 31, 1910.. . .	6,125
Total No. of files made during the year ending March 31, 1909.. . .	3,479
Increase.. . . .	2,646
Total No. of filings for year ending March 31, 1910.. . . .	30,900
Total No. of filings for year ending March 31, 1909.. . . .	27,383
Increase.. . . .	3,517
No. of orders issued for year ending March 31, 1910.. . . .	3,310
No. of orders issued for year ending March 31, 1909.. . . .	2,249
Increase.. . . .	1,061

INFORMAL COMPLAINTS.

It is desirable to call attention to the number of informal complaints dealt with by the Board. These number 494. Heard at public sittings of the Board and so disposed, 519. Deducting this number from the total number, 3,921 applications, filed with this Board, it will be noted that approximately 3,856 applications, including the informal complaints were disposed of without the necessity of a hearing.

SECRETARY'S DEPARTMENT.

Since the publication of the last annual report two additions have been made to the staff, namely, T. H. Casey, as clerk and stenographer, was appointed on August 10, 1909, and Miss I. M. Vogan, as stenographer, on December 22, 1909. There has been one resignation, namely, that of Mr. G. F. Perley. In other respects, no change has taken place in this department.

TRAFFIC DEPARTMENT.

No increase has been made in the staff of this department since the publication of the last annual report. The vacancy created by the resignation of C. N. Ham has been filled by the appointment of Mr. W. G. R. Wainwright. A statement of freight, passenger, telephone, and express schedules filed with the Board between April 1, 1909, and March 31, 1910, will be found in conjunction with the report of the chief traffic officer under Appendix 'B.'

ENGINEERING DEPARTMENT.

No change has been made in the number of the staff in this department other than that Mr. N. Cauchon, who was appointed as assistant engineer on May 1, 1908, has resigned from such position and the vacancy thereby created has not yet been filled by the appointment of a successor. A list of the examinations and inspections made by the Engineering Department for the year ending March 31, 1910, will be found under Appendix 'F.'

OPERATING DEPARTMENT.

Since the publication of the last annual report the Board has had under consideration the creation of an operating department in which would be merged the department hitherto known and designated as the accident department of the Board. This was considered necessary in the interests of efficiency in the work of the Board. It was decided that the operating department should consist of a chief operating officer, an assistant chief operating officer (Mr. A. F. Dillinger, already on the Board's staff, to assume this position), and that Inspectors Ogilvie, Lalonde, Blyth, Clarke and McCaul should be attached to the operating department.

The position of chief operating officer was filled by the appointment of Mr. A. J. Nixon, formerly trainmaster of the Grand Trunk Railway Company at London, Ont., who assumed his duties on October 1, 1909. It was felt that the appointment of a chief executive head to this important department would result in much greater efficiency, and even in the limited time that has elapsed since Mr. Nixon's appointment, experience has proved the correctness of this view. It will be noted in this connection that the arrangement referred to in the last annual report whereby an apportionment (with respect to accident reports) of the various provinces, to be dealt with by the commissioners has been superseded by the present arrangement. The report herein for the year ending March 31, 1910, will be found under Appendix 'F.'

ACCIDENTS.

The schedules to the report of the chief operating officer give a full analysis of the accidents during the year which would have been a record one had it not been for the unfortunate accident at Spanish River—this has been and is being most carefully investigated.

OFFICES OF THE BOARD.

Reference was made in the last annual report to the inadequacy of office accommodation and the Board now understands that arrangements are practically completed whereby suitable premises will be provided within the next six months. This will afford a much needed relief, as, in order to make proper provision for the future, double the space now available in the building at present occupied is required.

APPENDIX A.

COMPLAINTS FILED WITH THE BOARD OF RAILWAY COMMISSIONERS DURING YEAR ENDING MARCH 31, 1910.

1071. Excessive rates charged by the Grand Trunk Railway Company, on ice shipped in carload lots, from Mildmay to Glencoe, Ontario.

1072. Excessive freight charges on beans from Kent county to points in the west.

1073. Canadian Northern Railway Company, not removing temporary posts placed in the North river at Shawbridge, Quebec.

1074. Central Vermont Railway Company running trains from Montreal to Waterloo, and from Marieville to St. Cessaire, Quebec, without brakeman.

1075. Delay while going from Point Rouge to Sante, caused by freight trains blocking public road.

1076. Canadian Northern Railway Company for not erecting fences along its right-of-way in the vicinity of Grand View, Manitoba.

1077. Loss of seventy-five tons of hay in the vicinity of Ponoka, Alberta, owing to fire caused by Canadian Pacific railway engine.

1078. Inadequate platform accommodation at the depot of the Canadian Northern Railway Company, at Canora, Sask.

1079. Excessive express rates of American Express Company to Waterford, Ontario.

1080. Excessive rates on wooden mantles from Windsor to Pacific coast terminals.

1081. Excessive telephone rates charged by the Bell Telephone Company for service in Deer Park, North Toronto.

1082. Canadian Pacific Railway Company, for refusing to entertain claim on shipment of apples frozen in transit.

1083. Flooding of farm crossing, south of Garnett, Ontario, by the Grand Trunk Railway Company.

1084. Poor station accommodation provided by the Grand Trunk Railway Company at Garnett, Ontario.

1085. Delay in delivery of goods shipped by express to Cobalt, Ontario, by Dominion Express Company via North Bay.

1086. Excessive freight rates charged by the Canadian Pacific Railway Company on lumber from Vancouver, British Columbia, to Winnipegosis, Manitoba.

1087. Flooding of lands at Stonefield, Quebec, owing to the Canadian Northern Railway, or contractor, diverting creek.

1088. Proposed location of the Canadian Pacific Railway Company's elevator at Crossfield, Alta., as it would result in blocking of street crossing.

1089. Existing condition of road bed facilities for the handling of passengers, baggage, freight, &c., by the N.W. Southern Railway.

1090. Dangerous condition of crossing south of the Canadian Pacific Company's bridge over the Thomson river, Kamloops, B.C.

1091. Dangerous condition of highway crossing on the Canadian Pacific Railway, west of Parkbog, Sask.

1092. Poor train connection at St. Hyacinthe Junction, between the Quebec, Montreal and Southern Railway, and the Intercolonial Railway.

1093. Loss of goods in transit and difficulty in obtaining redress from railway companies.

1 GEORGE V., A. 1911

1094. Excessive rates charged by the Canadian Pacific Railway Company, on stone, from western Ontario to Hartland, N.B.

1095. Excessive freight rates charged by the Canadian Pacific Railway Company, car No. 147566, from Calgary to Bassano, Alta.

1096. Train service and bad condition of branch lines through the province of Ontario.

1097. Grand Valley Railway Company not settling for land taken for railway purposes in the village of St. George, township of Dumfries.

1098. Grand Trunk Railway Company, for removing cattle guards from farm crossing on line between Galt and Preston, known as 'Moscript Farm.'

1099. Poor train service furnished by the Lake Erie, Essex and Detroit River Railway Company from Harrow to Walkerville.

1100. Refusal of the Grand Trunk Railway Company, to refund unused portion of ticket, Winnipeg to Belleville, Ont.

1101. Length of section given section foreman on the Brandon, Saskatchewan and Hudson Bay Railway.

1102. Train service furnished by the Canadian Pacific Railway Company and Grand Trunk Railway Company, to and from Inglewood, Ont.

1103. Excessive rates on milk, shipped by the New York Central lines, from St. Timothé, county of Beauharnois, to Montreal, Que.

1104. Excessive freight rates charged, and poor service given by the Grand Trunk Railway Company, between Three Rivers and St. Celestin, Que.

1105. Serious loss caused to farmers, in the vicinity of Plumas, Man., owing to cattle killed, on the Canadian Northern Railway, caused by fences not being erected.

1106. Cattle killed in the district of Churchbridge, Sask., owing to non-erection of fences by the Canadian Pacific Railway Company.

1107. Dangerous condition of crossing near Mara Station, B.C., on the Shuswap and Okanagan Railway.

1108. Canadian Pacific Railway Company, for not settling claim for damages, caused by taking over additional lands and burning of pasture by passing engines, in the vicinity of Nutana, Sask.

1109. Discrimination in express rates from Forest to different points in Canada.

1110. Poor construction of railway crossings on the Dolover Railway.

1111. The bad condition of ditches along the line of the Quebec, Montreal and Southern Railway, in the parish of Varennes, Que.

1112. Condition of farm crossing on the Canadian Pacific Railway at Cap Santé, Que.

1113. The Canadian Pacific Railway Company taking possession of land for the construction of its Moosejaw-Lacombe Branch, and not settling with the owner.

1114. Excessive rates charged by the Canadian Pacific Railway Company on refrigerators, bicycles, and other articles shipped from Toronto to Calgary, Alta.

1115. Excessive freight rates charged on goods shipped to Maria, Que., from January 20 to April 20, 1909.

1116. Refusal of the Canadian Northern Railway Company to erect fences along its right-of-way, opposite farm at Blackfoot Hills, Alta.

1117. Freight rates charged on hogs to Montreal, as same discriminates in favour of the packers, against the shippers.

1118. Excessive charges by the Canadian Pacific Railway Company on shipment of settlers effects from Carnduff, Sask., to Zealandia, Sask.

1119. Cattle guards used at the crossing of the Quebec, Montreal and Southern Railway, at La Baie du Febvre, Que.

1120. Express rates to and from Rivière à Pierre, Que.

1121. Sale of telegraph line between Wollesley and Baden to private parties for telephone purposes.

SESSIONAL PAPER No. 20c

1122. Discrimination in favour of United States shippers, on canned goods for lake and rail shipments, by Canadian roads.

1123. Poor facilities for loading milk, and the arrangements for passengers getting on and off westbound trains, on the Grand Trunk Railway at Gore Station, Que.

1124. Canadian Northern Railway Company, for allowing snow fences to remain on the complainant's property until April 22, resulting in the flooding of his farm at Carman.

1125. Condition of highway crossing lying in the centre of section 11, township 11, range 3 west, on the Grand Trunk Railway, at St. François Xavier, Man.

1126. Flooding of farm, due to Grand Trunk Railway Company putting in a four-inch pipe through roadbed, east of Jarvis.

1127. Additional tracks across Hamilton Street, Regina, Sask., on the Canadian Pacific Railway.

1128. Condition of roadbed on the Penetang Branch, and Midland Division from Orillia to Midland, Ont., of the Grand Trunk Railway Company.

1129. Canadian Northern Railway Company, for not settling for land taken for the construction of the Carman Branch.

1130. Condition of approaches to and from station at the junction of the Canadian Pacific Railway, and the Central Ontario Railway, in Hastings county.

1131. Blocking of crossing by the New York Central Railroad, near Huntingdon, Qué.

1132. Excessive freight rates on brick from Perth to Smith's Falls compared with rates from Smith's Falls to Ottawa, on the Canadian Pacific Railway.

1133. Canadian Pacific Railway, for refusing to entertain a claim for shipment of beer from Michel, B.C., to Coleman, Alta., frozen in transit.

1134. Boston and Maine Railroad Company, for discriminating in favour of American shippers in the matter of demurrage charges; also against excessive freight rates on asbestos sand to Ayer's Cliff, Que.

1135. Train service to and from Lakefield terminus, on the Grand Trunk Railway Company's line from Port Hope north.

1136. Classification of iron and steel.

1137. Moving of station from Bissetts, Ontario, by the Canadian Pacific Railway Company.

1138. Proposed supplement 12, C.R.C., 294, of the Canadian Northern Quebec Railway Company, in reference to advance freight rates on wood pulp.

1139. Quebec, Montreal and Southern Railway Company, for taking more land than they had purchased for right-of-way purposes in the vicinity of Nicolet, Quebec.

1140. Proposed road diversion at Pierreville (Indian reserve), Quebec, Montreal and Southern Railway.

1141. Intercolonial Railway Company, for unjustly relieving a telegrapher of his position at Petit Rocher, N.B.

1142. Whistling of Canadian Pacific Railway Company's locomotives at Almonte, Ont.

1143. Canadian Pacific Railway Company, for encroaching on property in south-east quarter of section 10, township 18, range 2, east of principal meridian, Man.

1144. Condition of crossing between sections 10 and 15, township 9, range 22, municipality of Alexander, Man., on the Canadian Northern Railway.

1145. Excessive rates charged for the use of telephone at Dominion Park, Montreal, by the Bell Telephone Company.

1146. Dangerous condition of highway crossing between concessions 6 and 7, township of Tay, Ont., on the Georgian Bay and Seaboard Railway.

1147. Canadian Northern Railway Company, for not having right-of-way fenced at Notana Crossing, Kissing, Sask., resulting in cow being killed.

1 GEORGE V., A. 1911

1148. Flooding of land at Katrine, Man., owing to the Canadian Northern Railway Company neglecting to remove snow fences.
1149. Excessive freight rates charged by the Canadian Pacific Railway Company on traction engine separator, tank and equipment, from Regina to Olds, Alta.
1150. Excessive switching charges on carload of hay, by the Grand Trunk Pacific Railway.
1151. Excessive freight rates on the White Pass and Yukon route.
1152. Bad condition of crossing, section 16-53-25-4, province of Alberta, on the Grand Trunk Pacific Railway; also on the Canadian Northern Railway, river lots 23 and 24, 54, 25, 4.
1153. Excessive rates charged by the Ottawa and New York and Canadian Pacific Railway Companies, on a steam cutter from Rutland, Vt., to Hull, Que., and back to Rutland, Vt.
1154. Condition of ditches along Canadian Northern Railway Company's right-of-way opposite section 23, 2, 8, east and 23, 2, 7, east, municipality of Stuartburn, Man.
1155. Removal of farm crossing in lot No. 4, Ste. Eulalie, county of Nicolet, by the Grand Trunk Railway Company.
1156. Loss of piece of baggage shipped from North Portal to Killam, Alta.
1157. Bad condition of crossing on the Canadian Northern Railway near lots 23 and 24, 54, 25, 4, province of Alberta.
1158. Bad condition of crossing on the Grand Trunk Pacific Railway in section 16, 53, 25, 4, province of Alberta.
1159. Overcharge on shipment of six horses from McGregor to Toronto by Michigan Central Railroad Company, owing to error in quotation on the part of the agent.
1160. Excessive rates charged on carload of sand shipped from Ridgeway to Amagari, Ont., by the Grand Trunk Railway Company.
1161. Condition of Galbraith's crossing, north of Burketon Junction, Ont., on the Pontypool, Lindsay and Bobcaygeon Railway (G.T.R.).
1162. Canadian Pacific Railway Company, for not erecting fences along right-of-way opposite farm at Balgonie, Sask., resulting in two cows being killed.
1163. Canadian Northern Railway Company, for not properly fencing its right-of-way between Shevlin and Roblin, Man.
1164. Canadian Northern Railway Company (N.P. & N. Ry.) for encroaching on the road allowance in the municipality of Cameron, Man.
1165. Through rates being higher than combination of locals.
1166. Canadian Pacific Railway Company, for not erecting fences along right-of-way in the vicinity of Harrops, B.C., resulting in a cow being killed.
1167. Lack of accommodation for loading of freight at Charlton, on the Temiskaming and Northern Ontario Railway.
1168. Cancellation of commodity rates from Toronto to the maritime provinces on stamp ware, enamelled ware, and other articles.
1169. Canadian Northern Railway Company, for neglecting to erect fences along right-of-way opposite farm at Cordova, Man.
1170. Canadian Northern Quebec Railway Company (Montford branch), for neglecting to keep in proper shape, bridge at St. Sauveure, Que., and allowing fences along old right-of-way to become dilapidated.
1171. Discrimination on the part of the Canadian Pacific Railway Company against Muniac and in favour of Plaster Rock relating to rate on hardwood lumber.
1172. Train service between Port Moody and Agassiz, and facilities for shipping milk and fruit at Dewdney, B.C., on the Canadian Pacific Railway.
1173. Proposed increase in freight rates on nails, wire and kindred products from St. John, N.B., to Quebec Central points, by the Canadian Pacific railway.

SESSIONAL PAPER No. 20c

1174. Proposed increase in freight rates on bar iron, nails, &c., from St. John, N.B., to Quebec Central points, by the Canadian Pacific Railway.

1175. Canadian Northern Railway Company, for not erecting fences along right-of-way between Humeston and Berton Sidings, Manitoba.

1176. Excessive rates charged by the Dominion Express Company on parcels containing electro-types.

1177. Canadian Pacific Railway Company, for neglecting to erect fences along right-of-way opposite farm at Guelph Junction, Ont.

1178. Excessive rates charged by Dominion Express Co. to and from Petit Brule.

1179. Lack of proper loading and shipping facilities of C.P.R. at Battleford, Sask.

1180. Canadian Northern Railway Company, for running light engines from Roblin to Kamsack without a conductor in charge.

1181. Canadian Pacific Railway Company, for abolishing all farm crossings existing in the township of Newton, county of Vaudreuil, convenience of Mrs. de Beaujeu's property.

1182. Shortage in weight of cars of grain unloaded at Fort William and Port Arthur.

1183. Employers of labour not carrying out clause in Lord's Day Act regarding one day's rest.

1184. Rate on canned goods and jam, Calgary to Vancouver, and discrimination in favour of British exporter.

1185. Interchange of through passenger traffic at through rates between the Canadian Northern Railway and the Canadian Pacific Railway Companies, from and to their respective railways in the provinces of Alberta, Saskatchewan, Manitoba, and the western part of Ontario.

1186. Inefficient netting mesh used by Great Northern Railway Company's locomotives between Vancouver and New Westminster, B.C.

1187. Canadian Pacific Railway Company's proposed tariff, between St. John and Quebec Central points.

1188. Canadian Pacific Railway Company, for neglecting to fence right-of-way opposite farm at Belle Plaines, Sask.

1189. Railway Companies not erecting fences on right-of-way in the vicinity of Woodbridge, Man.

1190. Proposed portage charge of 25 per cent a ton to go into effect after Monday, July 25, 1909, at Montreal and Quebec.

1191. Train service on the Haliburton and Coboconk branches of the Grand Trunk Railway.

1192. Dangerous condition of highway crossings of G.T.R. in the township of Ops.

1193. Unsanitary condition of the yards and ditches on the Canadian Northern Railway, in the village of Emo, Ont.

1194. Shortage of refrigerator cars for butter shipments from Walsh, Alta., via Canadian Pacific Railway.

1195. Unsatisfactory train connection at Regina, Sask., between the Canadian Pacific and Canadian Northern Railway Companies.

1196. Michigan Central Railroad Company, for not leaving sufficient opening for flood water to get through when filling in trestle work crossing Bear creek.

1197. Delay going from Winnipeg to Beauséjour, Man., on the Canadian Pacific Railway.

1198. Excessive freight rates to Northwood, Ont., and Kent Bridge, Ont., charged by the Canadian Pacific and Grand Trunk Railway Companies.

1199. Canadian Classification ratings on manufactured rubber goods in less than carload lots.

1200. Condition of crossing at Station Avenue, Shawinigan Falls, Que., on the Canadian Northern Quebec Railway.

1 GEORGE V., A. 1911

1201. Canadian Northern Quebec Railway, for neglecting to fence right-of-way in the parish of St. Tite, Que.

1202. Excessive passenger rates charged by the Michigan Central Railroad Company between South Woodslee and Essex, Ont.

1203. Discrimination in freight rates on brick between Pilot Butte and Regina, Sask.

1204. Canadian Northern Quebec Railway Company, for wrongful dismissal of a conductor, and for running trains without necessary brakemen.

1205. Poor station accommodation for the handling of traffic between Quyon and Shawville, Que., on the Canadian Pacific Railway.

1206. Planking at crossings of road allowance running east and west between sections 24 and 25, township 7, range 19, west 1st meridian, municipality of Oakland, Man., on the Canadian Pacific Railway, same being too short to allow binders and threshers to go through.

1207. Canadian Northern Railway Company, for damage to property in the town of Prince Albert, Sask., owing to its location.

1208. Discrimination in Canadian Pacific Railway Company's freight rates on lumber from British Columbia, and coal from Lethbridge, to Canadian Northern Railway points as compared with rates to corresponding Canadian Pacific Railway points.

1209. Proposed increase in express rates, on fruit from Queenston to Toronto, by Dominion and Canadian Express Companies.

1210. Dangerous conditions of crossings in the municipality of Maisonneuve, Que., on the Canadian Northern Quebec and Montreal Terminal Railways.

1211. Excessive freight rates charged on settler's effects from Chesterville to Islay, Alta., by the Canadian Northern Railway Company.

1212. Refusal of railway company to accept for export, oats loaded in cars at less than 90 per cent of the capacity of the cars, at Chatham, Ont.

1213. Canadian Pacific Railway Company, for not replacing two gates removed by them, lot 2, con. 7, township Cavan, Ont.

1214. Flooding of land, by the Canadian Northern Railway Company owing to drain running from round house at Humboldt, Sask., eastward to section 20-32-22, west 2.

1215. Grand Trunk Pacific Railway Company, for failing to provide suitable apparatus for the handling of their drawbridge at West Fort, Ont.

1216. Dangerous condition of Main Street crossing, Hawkesbury, Ont., on the Grand Trunk Railway.

1217. Rates on the Central Ontario Railway, into and out of Frankford, Ont.

1218. Grand Trunk Pacific Railway Company, for not fencing right-of-way or putting in crossings in the vicinity of East Clover Bar, Alta.

1219. Missisquoi Marble Company, for removing rails from line leading to breakwater and pier at Philipsburg, Que.

1220. Excessive express rates on fruits, from California points to Vancouver, B.C.

1221. Increased minimum rate or weight in cars, from 30,000 to 34,000 lbs., on lumber shipments.

1222. Excessive freight rates on brick over the Windsor, Essex and Lake Shore Rapid Railway between Kingsville and Essex, Ont.

1223. Overcharge on shipment of skiff and equipment shipped via Canadian Express Company, from Dorval, Que., on June 9, 1909.

1224. Conditions of crossings on the Canadian Pacific Railway within the limits of the municipality of St. Théophile, Que., viz.: through ranges of St. Mathieu, St. Jean Baptiste North, St. Léon South, St. Léon North, St. Mathieu North, and St. Joseph.

1225. Two colts killed on the tracks of the Canadian Northern Railway at $\frac{1}{2}$ mile east of Islay, Alta., on March 27, 1909.

1226. Train service on the Napierville Junction Railway (Q. M. and S.) between Rouses Point and St. Constant, Que.

SESSIONAL PAPER No. 20c

1227. Rates and classification on motor, and vehicles of all kinds.

1228. Damage to household effects in wreck on the Grand Trunk Railway near Harriston, January 27, 1909.

1229. Loss of mare, killed by passenger train about two miles west of Humboldt, Sask., on the Canadian Northern Railway, on account of fences not being erected along right-of-way.

1230. Loss of cows killed on tracks of the Canadian Pacific Railway on account of no fences being erected along right-of-way in the vicinity of Mortlach, Sask.

1231. Increased minimum weight on carloads of lye from 30,000 to 40,000 lbs. to Pacific coast.

1232. Rates of the Canadian Northern Railway Company, on grain and cereals between Edmonton and Winnipeg, Man.

1233. Train service on the Canadian Pacific Railway between Winnipeg and Hudson Bay Junction, Sask.

1234. Canadian Northern Railway Company, for not fencing right-of-way opposite farm at Glenella, Man.

1235. Excessive charges of the Great Northern Railway Company, on shipment of goods from the Ashdown Hardware Co., Nelson, B.C., to Bonner's Ferry, Idaho.

1236. Closing of the Grand Trunk Railway Company's freight shed at Allandale, Ont.

1237. Train connection at St. Hyacinthe Junction, for the carriage of mail on the Q.M. & S. Ry., to points south and north.

1238. Blocking of under-farm crossing opposite north half lot 6, township Moore, Lambton county, by the Pere Marquette Railway Company.

1239. Train accommodation on the Quebec, Montreal and Southern Railway at Montreal South and Longueuil, Quebec.

1240. Excessive express rates charged on 20 pounds of honey from Woodstock to Fort Francis, Ont.

1241. Dominion Express Company, for not settling for crock of butter destroyed Havelock, Ont. Conductor refusing to accept excursion ticket.

1242. Canadian Pacific Railway Company, charging full fare from Toronto to Havelock, Ont., conductor refusing to accept excursion tickets.

1243. Canadian Northern Railway Company's surveyors entering upon a farm in Saskatchewan and destroying 300 bushels of oats.

1244. Dangerous condition of crossings on the Canadian Pacific Railway in the town of Farnham, Que.

1245. Dangerous condition of crossing on the Canadian Pacific Railway at First Street, in the town of Souris, Man.

1246. Dangerous condition of highway crossing on the Canadian Northern Railway along south limit of sections 10 and 11 and 12, township 18, range 22 west.

1247. Canadian Northern Railway Company, for delay in making settlement for land purchased at Glenforsa Siding, Man.

1248. Citizens' Telephone Company, for stringing wires across railway tracks, not in accordance with the regulations of the Board.

1249. Canadian Pacific Railway Company, for supplying box cars for stock shipments to Edmonton, Alta. Canadian Northern Railway Company, for making double switching charges.

1250. Excessive freight rates on stone from Gananoque, Ont., via Grand Trunk Railway to Sarnia, Ont.

1251. Increased rates on sugar from Fort William, and Port Arthur to Vancouver, B.C.

1252. Condition of highway crossings between lots 15 and 16 on third quarter line, township of Ops, on the Canadian Pacific Railway.

1253. Dangerous condition of crossings on the Canadian Northern Railway at Emo, Ont.

1 GEORGE V., A. 1911

1254. Excessive freight charges of the Grand Trunk Railway Company on shipment of berry boxes from Oakville, Ont., to Douglas, N.B.

1255. Excessive whistling of locomotives of the Grand Trunk Railway at and around London, Ont.

1256. Excessive rates on tan bark from Bracebridge, Ont., to Buffalo and Tonawanda, N.Y., charged by the Grand Trunk Railway Company.

1257. Canadian Northern Railway Company, for charging 2 cents per cwt. on car of oats from Ogilvie elevator to C.N.R. yard, City Point.

1258. Canadian Northern Railway Company, for not providing proper crossing and fencing along their line in the vicinity of the municipality of McCreary, Man.

1259. Canadian Northern Railway Company, for refusing to settle claim for steer killed on their line, in the vicinity of Delmas, Sask., April 17, 1909.

1260. Switching charges on shipment of bituminous coal, placed on the tracks of the Cornwall Street Railway, Light and Power Company.

1261. Excessive switching charges of the Canadian Pacific Railway Company on a shipment from Montreal to Vancouver and paying for the inspection of the Canadian Pacific Railway Company's car on private property.

1262. Excessive express rates charged by the Canadian Express Company on a small parcel shipped from Munroe, Michigan, to St. John, N.B.

1263. Freight rate charged by the Canadian Pacific Railway and Canadian Northern Railway Companies on coal from Toronto to Sudbury, Ont.

1264. Discrimination by the Canadian Northern Railway Company in coal rates under tariff No. 569 effective May 25, 1909, in comparison with tariff No. 486 effective December 11, 1908, and tariff No. 327 and supplement thereto, effective January 14, 1908.

1265. Canadian Pacific Railway Company, for running line through property at Strongfield, Sask., destroying garden and not settling for damages.

1266. Freight service to and from Walkerville, Ont., on the Pere Marquette Railway.

1267. Shunting on Essa street, Allandale, Ont., by Grand Trunk Railway.

1268. Excessive freight rates charged on shipments of clothing from Ottawa to Aylmer, Que., on the Canadian Pacific Railway.

1269. Inefficient culvert to carry water under the Kingston and Pembroke Railway Company's tracks in the village of Harrowsmith, Ont.

1270. Excessive freight rates to Elm Creek, Man.

1271. Dangerous condition of crossing known as 'Crossing de la Barbotte' on the Grand Trunk Railway, and at another place near the Junction station of the Grand Trunk Railway, in the first concession of Lacolle, Que.

1272. Dangerous condition of highway crossing over the Michigan Central and Pere Marquette Railroad on the town line between the townships of Southwold and Dunwich, county of Elgin, at Iona, Ont.

1273. Facilities for shipping live stock at Churchbridge, Sask., on the Canadian Pacific Railway.

1274. Grand Trunk Pacific Railway Company, for not erecting fences, cattle-guards, or crossings in the district of Clover Bar, Alta.

1275. Excessive passenger rates (students) charged on the Southwestern Traction Company's line from Lambeth to London, Ont.

1276. Great Northern Railway Company, for not providing proper station facilities for the handling of passengers and freight, and officials refusing to sign shipping bills when receiving goods for transit.

1277. Three cows killed by the Canadian Northern Railway on November 13, 1908, near Maymont, Sask.

1278. Condition of highway crossing one mile east of the village of Ilamiota, Man.

SESSIONAL PAPER No. 20c

1279. Unjust discrimination of the Grand Trunk Railway Company in passenger and freight rates from Coteau Junction, Que.

1280. Condition of boarding cars on the Canadian Northern Railway between Battleford and Kamsack, Sask.

1281. Dangerous condition of the Grand Trunk Railway Company's crossing known as the 'Subway' east of the station, Trenton, Ont.

1282. Canadian Pacific Railway sectionmen starting fire along right-of-way, which spread to southeast quarter section 6, township 23, Sask., west of 3rd meridian, destroying 22 acres of wheat.

1283. Canadian Pacific Railway Company's engines setting fire to property at Alexander, Man.

1284. Overcharge of \$4.50 on three first-class tickets from Montreal to Toronto by the Grand Trunk Railway, purchased on August 31, 1909.

1285. Dangerous condition of the Grand Trunk Railway Company's crossing on Church street, in the village of Mimico, Ont.

1286. Proposed removal of cattle-guards by the Grand Trunk Railway from a crossing at Holstein, Ont., to be replaced by gates.

1287. Dangerous condition of the Michigan Central and Pere Marquette Railroad Companies' crossings in the villages of Iona and Shedden, Ont.

1288. Canadian Pacific Railway Company, for discontinuing the practice of permitting customers to partly unload a car at a station before arriving at destination.

1289. Canadian Pacific Railway Company, for destroying a trunk and contents and refusing to settle for same.

1290. Inadequate platform accommodation at Creelman, Sask., on the Canadian Pacific Railway.

1291. Poor station accommodation on the Canadian Pacific Railway at Loughheed, Alta.

1292. Vancouver, Victoria and Eastern Railway Company, for not giving the public any service on their line from Cloverdale to Abbotsford, B.C., and refusing to put in crossings.

1293. Great Northern Railway Company, for collecting storage charges on a car of whisky which had been cancelled at the distillery.

1294. Grand Trunk Pacific Railway Company, for killing three sheep near Birtle, Man., and refusing to settle claim.

1295. Inflammable material left on right-of-way, and the destruction of public roads, including the roads from Yake to Copeland, and Sicamous to Vernon, B.C.

1296. Grand Trunk Railway Company, for not providing protection in the way of cattle-guards and fences along right-of-way in southeast section 6, concession 9, township of Flos, Ont.

1297. Bell Telephone Company, for interruptions on line during conversation, resulting in loss of time (dispute as to charge).

1298. Great Northern Railway Company, for not using the tariff fixed by the Board in regard to rates on shingles.

1299. Dominion Express Company, for charging more than the legal rate on black currants from Montreal to Hamilton, Ont.

1300. Dangerous condition of the Grand Trunk Railway Company's crossing on the 7th line, municipality of Esquesing, Ont.

1301. Grand Trunk Pacific Railway Company refusing Canadian Pacific Railway Company's cars for delivery to Tofield, Alta.

1302. Canadian Pacific Railway Company, for charging over rates on lumber from Pacific coast points to Brownlee, Tugaskie, and Outlook, Sask.

1303. Excessive charges by the American Express Company on surveyors' instruments, from Quebec to Thetford Mines, Que.

1 GEORGE V., A. 1911

1304. Loss of carload of canned goods on the Canadian Pacific Railway, consigned to Saskatoon, Sask.

1305. Extra charge on express parcels from points west of Toronto on account of extra mileage by billing via St. Polycarpe, Que.

1306. Proposed location of a Canadian Northern Railway siding in N.E. $\frac{1}{4}$ section 2, Ontario.

1307. Delay in transit to hogs, on the Grand Trunk Railway, resulting in loss of \$150.70.

1308. Canadian Pacific Railway Company, for charging too high a rate for hauling cars of the Quebec and Lake St. John Railway, loaded with lumber, to a lumber yard on their line.

1309. Grand Trunk Railway Company, for closing streets in the town of St. Johns, Que., and placing tracks across Jacques Cartier Street in said town.

1310. Dangerous condition of the Canadian Pacific Railway Company's crossing on John Street, Weston, Ont.

1311. Overcharge by the Canadian Pacific Railway Company, on a car of furniture from Kenora, to Vernon, B.C.

1312. Grand Trunk Railway Company, for killing three cows and refusing to settle for the loss.

1313. Dangerous condition of the Canadian Pacific Railway Company's crossing in lot 5, con. 6, tp. of Mountain, Ont.

1314. Dangerous condition of crossing of the Pere Marquette Railway in the village of Iona, Ont.

1315. Dangerous condition of crossing of the Pere Marquette Railway in the village of Shedden, Ont.

1316. Dangerous condition of crossing of the Michigan Central Railroad in the village of Iona, Ont.

1317. Dangerous condition of crossing of the Michigan Central Railroad in the village of Shedden, Ont.

1318. Grand Trunk Railway Company, for discriminating in petroleum rates against the Canadian Oil Companies, Limited.

1319. Inadequate facilities for shipments of oil in tank cars from Richardson Siding to Sarnia, Ont.

1320. Laying of gas pipe under the Grand Trunk Railway Company's tracks on public crossing at Lorraine, Ont., without first obtaining the necessary authority of Board.

1321. Dangerous condition of the North Road Railway crossing on the Vancouver, Victoria and Eastern Railway, between the city of New Westminster and towns of Port Moody and Barnet, B.C.

1322. Canadian Pacific Railway Company, for overcharge in rates on chairs from Owen Sound to Vancouver, B.C.

1323. Colt killed on the Grand Trunk Pacific Railway at Clavet, Sask.

1324. Canadian Northern Railway Company failing to comply with order of the Board dated October 16, 1905, regarding the diversion of Thibault Street, St. Boniface, Man.

1325. Canadian Northern Railway Company, for issuing an unsatisfactory certificate of service to an employee.

1326. Inadequate accommodation provided by the Napierville Junction Railway Company to business men and travellers generally from St. Cyprien to Montreal, Que.

1327. Canadian Northern Railway Company for overcharge in freight rates on shipment of four cars of lumber from Maddaugh Siding to Stoney Plains, Alta.

1328. Poor express service provided to and from Ruthven, Ont., also excessive express rates on shipments of fruits.

1329. Canadian Northern Railway Company refusing to give answer with regard to the erection of a station at the junction of its main line and the Emerson Branch.

SESSIONAL PAPER No. 20c

1330. Poor station accommodation provided by the Canadian Northern Quebec Railway Company at parish of Deschambault, Que.

1331. Difficulties arising from time to time between a certain firm in Toronto and the railway companies regarding breakage and injury to goods in transit.

1332. Claim against the Canadian Pacific Railway Company for shortage, damage-interest and storage on shipment of flour from Moosomin to Halifax, N.S.

1333. Canadian Pacific Railway Company for constructing its line through a certain property in the N.E. 9-36-4, Saskatchewan, and not paying for same.

1334. Dangerous condition of culvert at Harrowsmith under the Kingston and Pembroke Railway Company and the Bay of Quinté Railway Company.

1335. Lack of accommodation provided by the Kingston and Pembroke Railway Company for freight traffic at Glenvale Station, Ont.

1336. Difficulties arising with the American Express Company in not carrying out routing instructions on traffic handed over to them at Boston from St. John, N.B.

1337. Delay of the Canadian Pacific Railway Company in getting permission to to construct spur line at Passburg, Alta.

1338. Discrimination in rates on lumber from Yorkton to Veregin via Canadian Pacific Railway and Canadian Northern Railway Companies as against shipments from C.N.R. to C.N.R. points.

1339. Grand Trunk Railway Company discriminating against the city of Quebec in favour of the city of Montreal, on shipments from Quebec and points on the Grand Trunk Railway Company's line.

1340. Bad condition of farm-crossing on the Canadian Pacific Railway Company's line on lot 1, con. 11, tp. Tay, county of Simcoe, Ont.

1341. Dominion Express and Maritime Express Companies for overcharge in rates on parcel sent from Montreal to St. John, N.B.

1342. Canadian Railways discriminating in favour of American shippers for goods coming into Canada.

1343. Unsatisfactory draw at the New Brunswick and Prince Edward Island Railway Company's bridge crossing the Gaspereaux river, Port Elgin, N.B.

1344. Grand Trunk Railway Company, for charging for cartage on distribution of sugar, when the cartage is not done by them, but by an independent company.

1345. Poor condition of fences along the Grand Trunk Railway Company in the township of South Algoma, Ont.

1346. Dominion Express Company for overcharge on shipment of lions from Quebec to St. John, N.B.

1347. Grand Trunk Railway Company for allowing the ditch running across lot 10, con. 6, tp. Cavan, to be filled up with earth.

1348. Cow killed about two miles from Vassar on the Canadian Northern Railway Company's tracks, May 21, 1909.

1349. Inadequate station facilities provided by the Canadian Pacific Railway Company at Newburg Junction, N.B., and that there is no public crossing to and from the station.

1350. Dirty condition of first-class passenger coaches of the Canadian Northern Quebec Railway Company running between Montreal and Grand Mère, Que.

1351. Canadian Northern Railway Company has not fenced its right-of-way at lot 18, con. 1, tp. Oliver, Ont.

1352. Canadian Pacific Railway and Canadian Northern Railway Companies, for overcharge on mixed carloads of lumber and cedar fence posts from Warroad, Minn., to Indian Head, Sask.

1353. Demurrage charges at Halifax on a carload of coal from Philadelphia, Pa., owing to the delays in the arrival of sch. *Edwina*, through bad weather.

1354. Dangerous condition of crossing on the Grand Trunk Pacific Railway Company's line in the East Clover Bar district, situated about 2 miles west of Adrosan Station.

1 GEORGE V., A. 1911

1355. Canadian Pacific Railway Company, for overcharge on shipment of effects from Souris, Man., to Victoria, B.C.

1356. Canadian Northern Railway Company will not pay proper amount for damage for expropriation of part of land situated on southwest quarter section 10, 24, 17 west.

1357. Inadequate train service and accommodation provided by the Grand Trunk Railway Company during holiday seasons.

1358. Canadian Northern Express Company, for overcharge on two bundles of chairs from Montreal to L'Assomption, Que.

1359. Overcharge on returned baskets from Welland, Ont., by the different express lines.

1360. Two cows killed on the Esquimalt and Nanaimo Railway Company's line owing to defective cattle-guards on McKinnon's road, Vancouver Island, B.C.

1361. Canadian Pacific Railway Company, for installing snow fences along line at Carman, Man.

1362. Grand Trunk Pacific Railway Company, for damage to property of several farmers in the neighbourhood of Gilpin, Alta., by reason of fire.

1363. Canadian Northern Railway Company erecting snow fences along line at Somerset, Man.

1364. Oxen killed on Canadian Pacific Railway Company's line owing to right-of-way not being fenced at Chaplin, Sask.

1365. Overcharge on apples from Britton to Virden, Man.

1366. Canadian Northern Railway Company billing goods as first class goods instead of billing as settlers' effects from Richmond Hill, Ont., to Belmont, Man.

1367. Grand Trunk Railway Company, for discriminating against apple shippers of Belleville in favour of the town of Deseronto, Ont.

1368. Quebec, Montreal and Southern Railway Company, for excessive freight rates charged on apples and oysters shipped from Montreal to Gentilly, Que.

1369. Grand Trunk Pacific Railway Company suddenly refusing to accept shipments on account of having no heated car service at Saskatoon, Sask.

1370. Canadian Pacific Railway Company, for delay in delivery of trunk to Normantown, Sask.

1371. Two cattle killed by the Canadian Pacific Railway Company's train near a crossing at Cowley, Alta., owing to poor condition of cattle-guards.

1372. Cattle killed by the Canadian Northern Railway Company's freight train, owing to right-of-way not being fenced at South Junction, Man.

1373. Canadian Pacific Railway Company, for their method of handling local and way freight at Boissevain, Man.

1374. Quebec Central Railway Company for shortage of cars for pulp-wood shipments.

1375. Discrimination against British Columbia in connection with passenger rates, and more particularly commercial travellers' rates.

1376. Canadian Pacific Railway Company's special tariff issued on coke and coal unjustly discriminating against shipments from Lundbreck, Alta., in favour of shipments from Lethbridge, Alta.

1377. Cow killed by railway train in the vicinity of Findlater owing to the non-fencing of the right-of-way.

1378. Grand Trunk Pacific Railway Company for damages caused by prairie fire along the line of townships 45 and 46, ranges 12 and 13, west fourth meridian.

1379. Canadian Northern Railway Company, for loss of hay by reason of fire between Warman and Osler, Sask.

1380. Grand Trunk Pacific Railway Company, in connection with the proposed solid embankment across entrance to Market Grove, Prince Rupert, B.C.

1381. Delay in shipment of car of grain consigned to Winnipeg, Man.

SESSIONAL PAPER No. 20c

1382. Canadian Northern Railway Company, for loss of windmill, grinder, &c., shipped to Lumsden, Sask.

1383. Station known as Irish Creek, Ont., being changed for Jasper, the name of the village and post office.

1384. Canadian Pacific Railway Company's expense bills requiring checking of weights and classification before accepting delivery of shipment.

1385. Canadian Pacific Railway Company, in connection with the proposed location of station on the Regina-Bulyea branch, $1\frac{1}{2}$ miles east of the present town site.

1386. New York Central and Hudson River Railroad Company refusing to accept a first class ticket two days previously.

1387. Quebec, Montreal and Southern Railway Company's agent at Sorel, Que., refusing to accept shipments of beer early enough in the morning for the morning freight.

1388. Atlantic and Lake Superior Railway Company refusing to accept a car of sleighs at Matapedia on the Intercolonial Railway Company's line, consigned to Grand Pabos, Que.

1389. Canadian Pacific Railway Company, for overcharge on shipment of lambs from Farrelton, Que., to Ottawa, Ont.

1390. Canadian Pacific Railway Company, for delay in transit of shipment of horses from Ottawa to Saskatoon, Sask., also poor facilities for feeding stock en route.

1391. Canadian Pacific Railway and the Sumas and Pacific Railway Companies, for overcharge on shipment of books from Toronto to Seattle, Wash.

1392. Canadian Pacific Railway Company, for excessive passenger rates from and to Fife, B.C.

1393. Grand Trunk Railway Company, for excessive passenger rates between St. Hyacinthe and Montreal, Que.

1394. Canadian Pacific Railway Company, for not having sufficient siding accommodation on the northeast quarter of section 20, township 16, range 21, between Strathclair and Newdale, Man.

1395. Grand Trunk Railway Company, for overcharge on shipment of lumber from Canadian point to Buffalo, N.Y.

1396. Canadian Pacific Railway Company, for excessive charges on a car of settlers' effects shipped from Yellow Grass to Regina, Sask.

1397. Canadian Pacific Railway Company, for mare killed near Creston, B.C.

1398. Canadian Northern Railway Company, neglecting its fences and cattle-guards at the crossing in the municipality of La Broquerie, Man.

1399. Canadian Pacific Railway Company for shortage of cars at Didsbury, Alta.

1400. Canadian Pacific Railway Company, for overcharge on shipment of marble from Montreal, Que., to Hamilton, Ont.

1401. Canadian Northern Railway Company with regard to the condition of fences and cattle-guards through parish lots 124, 125, 126 and 127, parish of Portage la Prairie, Man.

1402. Canadian Northern Railway Company, for not fencing its right-of-way from Maidstone to a point east of Birling Siding.

1403. Canadian Pacific Railway Company, for inadequate condition of cars Nos. 1515 and 133 running on Outlook branch.

1404. Claim of \$6.50 against the Canadian Northern Railway Company, being for man's wages and food for the horses, *re* delay in delivery of horse shipment from Pratt Siding.

1405. Canadian Pacific Railway Company, for excessive freight rates from Owen Sound to North Bay, Ont.

1406. Central Ontario Railway Company in connection with the dangerous condition of crossing near Birds Creek, Ont.

1 GEORGE V., A. 1911

1407. County of Champlain Telephone Company refusing to afford connections with the Bell Telephone Company of Canada at St. Prospere de Champlain, Que.

1408. Canadian Pacific Railway Company, for delay in delivery of shipment of fruits from Niagara-on-the-Lake to Montreal, Que.

1409. Canadian Pacific Railway Company, for overcharge on shipment of apples from Lucan, Ont., to Wolseley, Sask.

1410. Inadequate station facilities of Great Northern Railway at Tamarack, B.C.

1411. Inadequate station facilities of Great Northern Railway at Porto Rico, B.C.

1412. Canadian Pacific Railway Company for loss of grain by reason of fire at Strome, Alta.

1413. Canadian Pacific Railway Company for cattle killed at Ruther Glen, Ont., by reason of there being no fences or cattle-guards.

1414. Canadian Pacific Railway Company for burning of stable at Emerson, Man.

1415. Canadian Pacific Railway Company, for inadequate facilities for handling merchandise and inadequate accommodation for passengers at Naseby Station.

1416. Canadian Pacific Railway Company doing away with two flag stations at Butler and Osquan.

1417. Transcontinental Railway expropriating lands (100 feet) and making a cut at right angles to cross said property instead of putting in an overhead bridge at St. Malachie, Que.

1418. Canadian Northern Ontario Railway Company, in connection with the proposed diversion of highway between lots 20 and 21, Con. 4, Tp. of Whitby, Ont.

1419. Shortage of cars for fruit shipments from Drumbo, Ont., on the Canadian Pacific Railway.

1420. Loss of a silver purse from a shipment of goods from Athelboro, Mass., to Montreal, Que., by the American Express Company.

1421. Poor condition of cattle-guards on the Grand Trunk Pacific Railway Company's line in the vicinity of Tantaller, Sask.

1422. Dangerous condition of crossing in the town of Lindsay, Ont., on the Grand Trunk Railway.

1423. Excessive rates charged by the Bell Telephone Company of Canada, for telephone at Westboro, Ont.

1424. Kingston & Pembroke Railway Company, not stopping their train No. 1 at Hinchbrook Station.

1425. Inadequate platform accommodation at the Canadian Northern Quebec Railway Company's station at St. Prosper de Champlain, Que.

1426. Excessive rates charged by the Canadian Pacific Railway Company for switching carloads of coal at Prescott, Ont.

1427. Quebec Central Railway Company, for not giving proper classification for excavation work done on section from St. George to St. Justine, Que.

1428. Discrimination in Grand Trunk Railway Company's passenger rates between Toronto and Niagara Falls, with Prescott as destination.

1429. Excessive freight rates charged by the Canadian Northern Railway Company on a carload of slabs from Kenora to Belmont, Man.

1430. Excessive Express rates between Toronto and Cobalt, Ont.

1431. Canadian Pacific Railway Company, for not guarding against fire, on their line between Cadsby and Castor, Alta.

1432. Unsatisfactory train service supplied by the Canadian Pacific Railway Company at Hitchcock, Sask.

1433. Damages to farm, S.W. 24, T. 50, R. 2, W. 4th M., Alta., owing to prairie fire caused by the Canadian Northern Railway Company.

1434. Shortage of cars for the shipment of lumber from Marmora Jct., to Cordova, on the Central Ontario Railway.

SESSIONAL PAPER No. 20c

1435. Unsatisfactory connection between the Grand Trunk and Michigan Central Railroad Companies, at Petrolia, Ont.

1436. Damage sustained owing to fire caused by a Great Northern Railway Company's freight train, August 26, 1909, at Brandon, Man.

1437. Condition of Canadian Pacific Railway crossing between sections 5 and 6, Tp. 40, R. 19, W. 3 M., Sask.

1438. Increased freight rates on wheat at points on the Yorkton Branch of the Canadian Pacific Railway; and excessive charges at points on the Grand Trunk Railway.

1439. Damage to shipment of canaries from New York to London, Ont.

1440. Classification of lead package tea as first class goods, subject to highest freight rates.

1441. Manner in which goods are shipped from Montreal, same not being in accordance with instructions on bills of lading, and the Quebec, Montreal and Southern Railway Company having no tariffs with the Grand Trunk Railway Company.

1442. Proposed location of the Canadian Northern Railway Company's line at Midale, Sask.

1443. Condition of highway crossing on the Grand Trunk Pacific Railway at North East Quarter of 12-44-6 West 4th Mer., Alta.

1444. Condition of Canadian Northern Railway Company's fences and cattle-guards at McLean's Siding between Roblin and Deepdale, Man.

1445. Canadian Pacific Railway Company discriminating in favour of Toronto against Montreal with regard to weight of cars of live stock shipped from Winnipeg and points west of Winnipeg.

1446. Rates on windmills from Brandon to Vancouver are discriminatory in favour of eastern shippers.

1447. Canadian Pacific Railway Company, for mare and colt killed at crossing on Soo Line Section 2, Tp. 9, R. 15, W. 2 M., Sask.

1448. Ottawa & New York Railway Company being four hours late on December 27, 1909, causing a great deal of inconvenience to passengers.

1449. Canadian Pacific Railway Company, for taking too much time to settle claims for shortage, breakage, &c.

1450. Horse killed on the Canadian Northern Quebec Railway Company's line at St. Prospere de Champlain, Que.

1451. Blocking of crossing by train crews switching cars at crossing between the Soo Station on the American side and the Canadian Pacific Railway Company's station on the Canadian side.

1452. Excessive freight rates and switching charges on coal from Pinto to North Portal, Sask.

1453. Excessive express rates in the province of Saskatchewan, more particularly at North Portal, Sask.

1454. Grand Trunk Railway Company, for not supplying a farm crossing on the line at lot 6, con. 8, Tp. Muskoka, Ont.

1455. Erection of snow fences on farm at Knox, Man., without the consent of the owner.

1456. Canadian Pacific Railway Company for the closing of station and telegraph office at Eau Claire, Ont.

1457. Canadian Pacific Railway Company for excessive rates on live stock between Toronto and Smiths Falls, Ont., as compared to rates from Toronto to Montreal.

1458. Grand Trunk Railway and the Quebec Central Railway Companies' joint rates on iron commodities are a discrimination against the city of Quebec.

1459. Stringing of wires over the tracks of the Canadian Pacific Railway Company at $\frac{3}{4}$ mile north of Chatsworth Station, Ont., without proper authority.

1 GEORGE V., A. 1911

1460. Dangerous condition of crossing at Catherine Street, Hamilton, Ont., on the line of the Toronto, Hamilton and Buffalo Railway Company.

1461. Grand Trunk Railway Company, providing poor accommodation for the shipments of hogs from Goldstone, Ont.

1462. Canadian Northern Railway Company providing poor facilities for the unloading of cars of coal or wood at Saskatoon yard, Sask.

1463. Canadian Northern Railway Company refusing to settle for the expropriation of land for the construction of its Rossburn extension south $\frac{1}{4}$ section 13-23-29 west 1st Mer.

1464. Excessive Telephone rates charged by the Bell Telephone Company of Canada.

1465. Cow killed on the Canadian Northern Company's line at Lloydminster, Sask., on account of fences not being erected along line.

1466. Grand Trunk Pacific Railway Company for delay in placing the cars at the Stock Yard at Edmonton, Alberta.

1467. Excessive express rates on castings from Edmonton, Alta., to points in the west.

1468. Against the present system of dealing with berths for trips on railways; also against excessive rate for a berth between Toronto and Port Arthur, Ont.

1469. Canadian Northern Railway Company for not settling for land secured for townsite purposes in west half of section 14, tp. 19, r. 15, w. 1st m., Man.

1470. British Columbia General Contract Company, for not settling with subcontractors for the building of stations and section houses on the Canadian Pacific Railway Company's line between Strassburg and Nokomis.

1471. Against the owner's risk clause of the traffic form of the railway companies.

1472. Michigan Central Railroad Company proposing to abolish the flag station at Rosslyn, Ont.

1473. Canadian Northern Railway Company for overcharge on shipment of apples from Belleville, Ont., to Bowman, Man.

1474. Condition of fences, cattle-guards, and crossings on the Atlantic and Lake Superior Railway Company.

1475. Père Marquette Railroad Company for excessive hauling charges on metal sheeting from Preston, Ont., to Wheatly, Ont.

1476. Canadian Pacific Railway Company constructing line across certain property without properly compensating for same.

1477. Canadian Pacific Railway Company fencing its property around the station at Otterburn, Man., leaving no entrance to station for the access of bus.

1478. Canadian Pacific Railway Company claiming that it owns small portion of land containing some private buildings at Cap St. Ignace, Que.

1479. Canadian Pacific Railway Telegraph Company holding certain messages addressed to Winnipeg.

1480. Canadian Pacific Railway Company discriminating against certain stock dealers in the vicinity of Smith's Falls with regard to rates on unfinished cattle from Toronto.

1481. Canadian Pacific Railway Company discriminating against cars for the loading of grain in favour of cars for other freight at Rouleau, Sask.

1482. Inadequate condition of cattle-guards on the Canadian Pacific Railway Company's line at Cowley, Alta.

1483. Rates on coal charged by the railways in the province of Saskatchewan.

1484. Excessive demurrage charges on two cars of oats at High River, Alta., owing to refusal of Canadian Pacific Railway Company to release the cars until it was supplied with consular invoices.

1485. Canadian Pacific Railway Company for charging a rate of 10 per cent in excess of stencilled capacity of cars loaded with grain although the cars were loaded 10 per cent excess at the request of the railway company.

SESSIONAL PAPER No. 20c

1486. Canadian Northern Railway Company for crop spoiled by cattle owing to right-of-way not being fenced at Lake Francis, Man.

1487. Canadian Northern Railway Company are still charging the same rates that were charged by the Construction Department, before the portion of the road from Benito to Pelly, Sask., was taken over by the Operating Department.

1488. Grand Trunk Railway Company regarding the dangerous condition of crossing about 200 yards east of the station at Waterdown, Ont.

1489. Grand Trunk Railway Company for overcharge on flat iron from Montreal to Kingston, Ont.

1490. Canadian Pacific Railway Company with regard to the proposed change of location of the Crowsnest Pass Branch between Dunmore and Burdette, Alta.

1491. Canadian Pacific Railway Company providing poor accommodation for shippers at Dayton Station, Ont., that there are no sign boards at crossings and that trains pass without blowing whistle.

1492. Canadian Express Company for rates charged on oysters from West Barington, R.I., U.S.A.

1493. Discrimination by express companies in increased charges on oysters from Buffalo to Toronto when originated at certain Adam's Express Company's points.

1494. Grand Trunk Pacific Railway Company with regard to proposed crossing in Coulée, section 34-45-21-4, 8 miles south of Camrose, Alta.

1495. Canadian Pacific Railway Company as to freight rates from Joliette to points in the province of Quebec.

1496. Canadian Pacific Railway Company for shortage of cars for shipments of lumber from New Brunswick points to the United States.

1497. Canadian Northern Railway Company providing poor freight and passenger service at Lavenham, Man.

1498. Canadian Pacific Railway Company for shortage of cars for the shipment of pulp from New Brunswick points to points in the United States.

1499. Excessive charges by the Bell Telephone Company of Canada, for a residence telephone.

1500. Great delays arising on trains, owing to trains slowing down to ten miles an hour at crossings.

1501. No landing for boats at Arrow Lake, B.C.

1502. Grand Trunk Railway Company for excessive rates on oil from Lawrenceville, Ill., to Toronto, Ont.

1503. Canadian Pacific Railway Company providing inadequate accommodation for passengers at Adirondack Station.

1504. Père Marquette Railroad Company providing inadequate accommodation at Shedden Station, Ont.

1505. Grand Trunk Railway Company for unsatisfactory train service provided between Lindsay, Ont., and Haliburton, Ont.

1506. Liabilities of express companies where value of shipment is not declared.

1507. Loss of 27 tons of hay by reason of fire on account of the Canadian Northern Railway Company failing to provide fire-guards, Innisfail, Alta.

1508. Canadian Northern Railway Company for excessive rates from Buchanan, Sask., to Headingley, Man.

1509. Loss of a barrel of oil at Gull Lake Station, Sask., on the Canadian Pacific Railway Company's line, on account of careless handling.

1510. Vancouver, Westminster and Yukon Railway Company for burning timber when constructing line through property in the vicinity of Cloverdale, B.C.

1511. Canadian Pacific Railway Company, regarding the condition of gates at the crossing on farm near Kenmay, Man.

1512. Central Ontario Railway Company performing switching operations across highways with a crew of engineer and brakeman only.

1 GEORGE V., A. 1911

1513. Canadian Pacific Railway and the Grand Trunk Railway Companies for overcharge on a shipment of evaporated apples consigned to Winnipeg, Man.

1514. Père Marquette Railroad Company regarding the defective fencing along line through lot 28, con. 2, township of Romney, Ont.

1515. Canadian Pacific Railway Company in connection with its proposed intention to take one train off from its Tilsonburg, Lake Erie and Pacific Branch.

1516. Canadian Northern Railway Company for overcharge on a shipment of lime and cut stone shipped from St. Boniface to Vonda, Sask.

1517. Canadian Pacific Railway Company for proposed change of site of its station at Carlstadt, Alta.

1518. Canadian Pacific Railway Company for overcharge on shipment from Montreal to Maniwaki, Que.

1519. Canadian Pacific Railway Company for overcharge on a shipment of evaporated potatoes shipped from a point near Belleville, Ont.

1520. Grand Trunk Railway Company for overcharge on a shipment of lumber from Earlton, Ont., to Buffalo, N.Y.

1521. Dominion Express Company with regard to rates charged on a small parcel of personal effects.

1522. Protest against the approval by the Board of the Winnipeg Tariff of Telegraph Companies operating into and out of the city of Winnipeg, Man.

1523. Canadian Pacific Railway Company for loss and injury to horses owing to the removal of cattle-guards one mile east of Lundbreck, Alta.

1524. Grand Trunk Railway Company with regard to passenger rates charged between Rockwood and Guelph, Ont.

1525. Unsatisfactory results obtained by having coal shipped in open cars.

1526. Dominion Express Company, for charges made on a shipment of carpet from Winnipeg to Morden, Man.

1527. Railway companies not making any allowance for the tare of cars when weighing lumber shipments.

1528. Damage to property at Lethbridge, Alta., by the contractors of the Canadian Pacific Railway Company's line to Carmanguay.

1529. Canadian Pacific Railway Company, for overcharge on shipment of settlers' effects from Lauder, Man., to Regina, Sask.

1530. Railway Officials in Moosejaw commanding engineers on train to disobey train rules.

1531. Pere Marquette Railroad and Grand Trunk Railway Companies, refusing to supply tank car equipment for shipments of oil from Wallaceburg, Ont.

1532. Canadian Pacific Railway Company, for the killing of team of mares in yard at McTaggart, Sask., about January 7, 1910.

1533. Excessive express rates charged from Winnipeg to Red Deer and to Edmonton, Alta.

1534. Excessive express rates charged from Fort Francis to Port Arthur, Ont.

1535. Condition of telephone crossings of the Gladstone Municipal Telephone at Gladstone, Man.

1536. Grand Trunk Railway Company for discriminating in the furnishing of cars against all Canadian routes to Winnipeg, via North Bay, in favour of route via Chicago.

1537. Windsor, Essex and Lake Shore Rapid Railway Company, for lack of accommodation for passenger and freight at Ruthven, Ont.

1538. Grand Trunk Railway Company with regard to the proposed line from the Old Fort near Midland to a point on the Penetanguishene branch.

1539. Pere Marquette Railroad Company, for service given between Chatham, Blenheim and Dresden, Ont.

SESSIONAL PAPER No. 20c

1540. Grand Trunk Railway Company for inadequate platform accommodation provided at Oakville, Ont.

1541. Condition of the London Rolling Mills Company's yard lying too close to the Pere Marquette Railroad Company's tracks.

1542. Canadian Pacific Railway Company, for the loss of five horses in section 28, township 22, range 32, west first meridian, Saskatchewan, December 1, 1909.

1543. Alleged discrimination in import v. domestic rice rates.

1544. Intercolonial Railway Company, for damage to furniture while in transit.

1545. Adams Express Company and Dominion Express Company, for delay to shipment of graphophone records from Bridgeport, Conn., to Winnipeg, Man.

1546. Canadian Pacific Railway Company, for refusing to entertain claim for mare killed near Caron, Sask.

1547. Canadian Pacific Railway Company, for failure to furnish suitable cars for stone traffic from St. Mary's, Ont.

1548. Grand Trunk Railway Company not having proper drainage across its tracks at Bainsville, Ont.

1549. Canadian Northern Railway Company with regard to proposed route in township of Sidney, Ont.

1550. Canadian Northern Railway Company regarding the condition of fences along right-of-way in sections 33 and 34, township 19, range 21, west second meridian also lack of cattle-guards.

1551. Condition of passenger equipment on the Salisbury and Albert Railroad Company.

1552. Blocking of Duncan street crossing, Fort William, by string of cars, September 30, 1909.

1553. Canadian customs officers, for holding 35 packages of printed matter for duty, at Windsor, consigned to various Wabash Railroad Company's agents in Canada.

1554. Alberta Railway and Irrigation Company, with regard to excessive express charges.

1555. Grand Trunk Pacific Railway Company, for not providing cattle-guards at public crossings at Spy Hill, Sask.

1556. Vancouver, Victoria and Eastern Railway and Navigation Company, for unsatisfactory condition of crossing on farm at southwest quarter section 3, township 8, municipality of Surrey, B.C.

1557. Laying of telephone wires under the Grand Trunk Railway Company's tracks south of St. Mary's, Ont., apparently without proper authority.

1558. Grand Trunk Pacific Railway Company, failing to provide settlement for expropriation of lands in vicinity of East Clover Bar, Alta.

1559. Grand Trunk Railway Company, for train service provided between Toronto and Fenelon Falls, Ont.

1560. Canadian Pacific Railway Company, for removing apples from refrigerator cars at Fort William, Ont.

1561. Canadian Pacific Railway Company, refusing to put a ditch along its right-of-way where it crosses lot 24, concession 11, township Medonte, Ont.

1562. Canadian Pacific Railway Company, regarding storage charges covered by C.R.C. No. H 912, supplement No. 2.

1563. Canadian Pacific Railway Company, for excessive charges on shipment of a car of apples from Goderich, Ont., to Coaticook, Que.

1564. Excessive express charges on shipment of newspapers from Windsor Mills, Que., to Brantford, Ont., via Canadian Express.

1565. Agent at Regina, Sask., for not furnishing correct information as to the arrival and departure of trains.

APPENDIX B.

LIST OF APPLICATIONS HEARD AT PUBLIC SITTINGS OF THE BOARD
FOR THE YEAR ENDING 31st MARCH, 1910.

1598. Complaint of Sir Richard Cartwright, G.C.M.G., alleging that the crossing of the Grand Trunk Railway, and Kingston and Pembroke Railway, at Place D'Armes opposite Tête du Pont Barracks, Kingston, Ont., is of a dangerous character. Asking that more efficient protection be provided thereat. (File No. 8345.)

By consent, order made that in no case shall speed exceed six miles an hour at the crossing.

1599. Application of the Chatham, Wallaceburg and Lake Erie Railway Company, under Section 29 of the Railway Act, for an order reviewing, altering, or varying order of the Board dated 4th October, 1906, which granted leave to the Chatham, Wallaceburgh & Lake Erie Railway Company, to cross at grade the tracks of the Grand Trunk Railway Company, at William street, Chatham, Ont., and for an order that the Grand Trunk Railway Company, reimburse the Chatham, Wallaceburgh and Lake Erie Railway Company, for the cost of installing and connecting up to the interlocker plant installed at the said crossing, the cost of repairing, re-installing and connecting up to the gates across William street and Queen street, at and near to the said crossing, and the cost of switching connections and appliances connected up with the said interlocker plant. (File 1781, Case 4769).

Application dismissed.

1600. Application of the Canadian Pacific Railway Company, under Section 178 of the Railway Act, for authority to take additional lands, adjoining their station grounds on the N. E. $\frac{1}{4}$ of section 6 Tp. 10, Range 12. for the construction of a 'Y' at Sidney, Man.

Application dismissed. (File 9585, Case 4646.)

1600a. Application of Armstrong and Cook of Toronto for order directing the Grand Trunk Railway Company, to provide and construct suitable culvert where the company's railway adjoins their farm in Lot 753, Lachine, Quebec. (File 1540).

Adjourned. Not to go on list again unless applicants request.

1601. In the matter of the crossing of the Montreal Road at Kingston Junction, Ont., at rail level, by the Grand Trunk Railway Company of Canada. (File 98).

(NOTE). This matter is set down for the consideration of the cost of the protection provided for in order of the Board No. 6191, dated February 6, 1909, and the consideration of the detail plans.

Order made that city of Kingston pay cost of night watchman. Subway to be built before August 1, 1909.

1602. Application of the Grand Trunk Railway Company of Canada, under Section 229 of the Railway Act, for an order directing the installation and maintenance, at the expense of the Canadian Pacific Railway Company, of a complete interlocking plant, with derails on the lines of both railway companies, the said derails to be interlocked with home and distant signals, at the point where the Applicant Company's railway is crossed on the level at Drumbo, Ont., by the Canadian Pacific Railway, (formerly the Credit Valley Railway) in accordance with derail plans thereof to be submitted and approved by the engineer of the Board. (Adjourned hearing.) (File 8461, Case 3933.)

Order made for installation by Grand Trunk Railway within three months, of interlocker. Expenses to be borne by Canadian Pacific Railway.

SESSIONAL PAPER No. 20c

1603. Application of the Grand Trunk Railway Company of Canada, under section 229 of the Railway Act, for an order directing the installation and maintenance, at the expense of the Canadian Pacific Railway Company, of a complete interlocking plant, with derails on the lines of both companies, the said derails to be interlocked with home and distant signals, at the point where the Applicant Company's railway is crossed on the level at Brampton, Ont., by the Canadian Pacific Railway (formerly the Credit Valley Railway), in accordance with detail plans thereof to be submitted and approved by the engineer of the Board. (Adjourned hearing.) File 8462, Case 3934.)

Order made for installation within three months, of interlocker. Expenses to be borne by the Canadian Pacific Railway.

1604. Application of the Export Lumber Company, of Ottawa, Ontario, under sections 227 and 284 of the Railway Act, for an order directing the Grand Trunk Railway Company and the Canadian Pacific Railway Company to provide a connection by a branch line between the sidings of these two companies, at present constructed across Preston street and York street, Ottawa, Ont., for the purpose of affording more adequate facilities for the applicant company. (Adjourned hearing.) (File 6183, Case 4139.)

Application refused.

1605. Application of the Export Lumber Company, Ottawa, Ont., under sections 226 and 227, for an order directing the Grand Trunk Railway Company to permit its siding, as constructed across Preston street, Ottawa, to be joined with proposed siding of the Applicant Company, in its lumber yard at Preston street, Ottawa, Ont. (Adjourned hearing.) File 8190, Case 4158.)

Application granted. Order issued.

1606. Application of the Canadian Northern Quebec Railway, under Section 32, for order varying the order of the Railway Committee of the Privy Council of Canada, January 30, 1900, respecting crossing Canadian Pacific Railway, south of St. Jerome, Quebec. (File 9523, Case 4608.)

Application dismissed.

1607. In *re* accident on the Michigan Central Railroad at Springfield, Ontario, on February 23, 1909. (File 9767.)

Application dismissed.

1608. Application of Canadian Pacific Railway Company, for order for rehearing of their application under Section 130 of the Railway Act of 1903, for approval and sanction of deviation of a portion of the branch line on the south side of the Lachine Canal, in the town of St. Paul, Quebec. (File 1088, Case 4861).

Deviation approved. Expropriation proceedings taken under order No. 1834, dated 4th October, 1906, to be taken as having been performed under and by virtue of the order now made.

1609. Application of the corporation of the City of Ottawa for an order under Sections 237 and 238 directing the Grand Trunk Railway Company, to provide and construct suitable works for carrying the railway of the Canada Atlantic Railway Company, now operated by the Grand Trunk Railway, over the highway where the said railway crosses Lyon street, on the level, a public highway in the city of Ottawa, Ontario. (File 9514, Case 4597.)

Order made. Work to be at the expense of the city. City to state within ten days from date of order if willing to go on in the work.

1610. Consideration of draft order in connection with the proper safeguards for the handling of shipments of long materials and stone. (File 8799.)

Order made that the railway companies shall strictly conform to the rules of the Master Car Builders Association herein. The railway company to be liable to a penalty of \$50 for non-compliance therewith and the employees to be liable to a penalty of \$25 for non-compliance. Order No. 7599, dated July 24, 1909.

1 GEORGE V., A. 1911

1611. Application of the city of Guelph, Ontario, under Sections 258 and 284 of the Railway Act, for order directing the Grand Trunk Railway, to provide a proper passenger station with good and sufficient accommodation and facilities for their passenger traffic at Guelph, Ontario, also under Section 238 for order requiring the railway company to make suitable provision for the protection, safety, and convenience of the public using Neeve street, and under section 238 for order requiring the railway company to make suitable provision for the protection, safety, and convenience of the public by the construction of a bridge or subway at the crossing of Gordon & Norfolk streets, commonly known as Gordon street crossing.

(This application will not be heard before April 7, 1909, Wednesday.) (File 9248. Case 4433.)

Order made providing for the building of the station, construction of subways, &c. Work to be completed on or before June 1, 1911. Order 8627, dated October 21, 1909.

1612. Complaint of Rev. W. Bruck, Prince Albert, Sask., of delay on the part of the Canadian Northern Telegraph Company in delivery of telegraph messages. (File 9371.)

Application dismissed.

1613. Complaint of the corporation of the city of Montreal, Quebec, against the rates, service, and operation of the Montreal Park and Island Railway. (File 9527.)

Order made adding Montreal Street Railway as a party and matter postponed to May sittings, to show cause why they should not join in through route and through rates.

1614. Application of the Canadian Freight Association, under order of the Board No. 3258, dated July 6, 1907, for an order cancelling or revising the existing commodity rates on wire fencing and netting from Windsor, Stratford, Owen Sound, Hamilton, and Welland, Ont. (Adjourned hearing.) (File 7345. Case 3210.)

Application granted. Order No. 6844, dated April 6, 1909.

1615. Complaint of the Fullerton Lumber and Shingle Co., Vancouver, B.C., alleging discrimination in freight rates on forest products shipped by Canadian Northern Railway Company and the Canadian Pacific Railway Company. (File 9868.)

Order made directing the Canadian Pacific Railway and Canadian Northern Railway Companies to publish and file joint class and commodity tariffs of rates on freight traffic in classes 6 to 10, inclusive, of the Canadian Classification. Order No. 7602, dated April 23, 1909.

1616. Application of the Canadian Freight Association for approval of supplement No. 1. classification No. 14. (File 9428. Case 4535.)

Order made that the additions and changes embodied in proposed supplement to Canadian Freight Classification No. 14 be approved, subject to certain exceptions and additions as set out in the said order. Supplement to become effective within three weeks of its receipt by the Chairman of the Advisory Committee of the Canadian Freight Association. Order No. 7023, dated May 10, 1909.

1617. Application of the Canadian Manufacturers' Association, under the Railway Act, for an order directing the railway companies to provide for the inclusion of road graders for municipal purposes in the agricultural implement list of the Canadian Classification. (Adjourned hearing.) (File 7750. Case 3483.)

Application refused.

1617a. Complaint of C. B. Janes, Orillia, Ont., respecting classification of cheese boxes. (File 9417.)

Complaint dismissed.

1618. Consideration of proposed order respecting joint freight or passenger tariffs where the tolls exceed the sum of the toll for the same or like traffic of the several companies singly or jointly operating the continuous joint route between the point of origin of the traffic and the destination thereof. (File 9754.)

SESSIONAL PAPER No. 20c

No order issued. See formal judgment of Commissioner McLean in the Appendix and dated May 28, 1909.

1619. Consideration of the proposed disallowance of all or any stop-over charges for the purpose of changing the consignee of carload traffic in transit, or the destination, or for the diversion thereof, where the bulk is not broken, which may be equal to or exceed 1c. per 100 lbs. (File 8659.)

Order made fixing \$3 per car as the charge.

1620. Application of the Canadian Pacific Railway Company, under section 29 of the Railway Act, for an order amending order dated January 21, 1909, whereby a stop-over charge at Cartier on grain was fixed at twenty-five cents per car per day, so that the charges imposed for such stop-over and services incidental thereto shall be such sum per day as may be shown to represent a reasonable charge for the additional services rendered by the railway company in connection with stop-over privileges. (File 8641. Case 4743.)

After hearing the parties the Board refused to make any order re-opening this matter.

1621. Complaint of the British American Oil Company, Limited, of Toronto, Ont., of refusal of the Grand Trunk Railway Company to carry crude oil originating in Stoy, Ill., and destined to Toronto, Ont., at 5th class rate in accordance with Official Classification. (Re-argument.) (File 7529. Case 3269.)

(Note.) This complaint will involve consideration of the effect (if any) of Grand Trunk Railway circular supplement 'A' to Official Classification, No. 29, in view of Indianapolis Southern Tariff of December 16, 1906, effective January 20, 1907, and section 336 of the Railway Act.

Order made declaring that the legal rate chargeable on the shipment was 20c. per 100 lbs.

1622. Application of the Construction and Paving Company of Ontario, Limited, for order requiring railway companies to provide a through rate on asphalt oil in tank cars from Philadelphia to Toronto, Ont., also to refund overcharge on shipments already made. (File 9299.)

Board delivered judgment declaring that 22c. per 100 lbs. is the legal established rate.

1623. Consideration of the question of division of interswitching charges as from Toronto, Hamilton and Buffalo Railway and Grand Trunk Railway, on special interswitching tolls lower than those permitted by the order of the Board No. 4988. (File 4459. Case 4548.)

Withdrawn.

1624. Application of the Canadian Freight Association for variation of the order of the Board No. 3258, dated July 6, 1907, by the elimination of clause 'II' thereto relating to special commodity rates. (File 4649. Case 1314.)

Order made that order 3258, dated July 6, 1907, be amended by striking out clause 'H' in said order.

1625. Application of the Canadian Pacific Railway under section 256, for order directing the city of Montreal to put in proper repair the bridge known as Bridge 1-65, being viaduct over St. Catharines street, Montreal, Que. (File 6578. Case 3736.)

The Board will consider alterations and repairs and whether it will follow the lines of the original section approved by the Canadian Pacific Railway, which allow only for light street railway cars, or whether the bridge has to be designed to carry the present increased traffic, and heavy cars, also add the Montreal Street Railway as parties to the case.

Order made for specific performance of the agreement herein and for repairs or renewals which are to be completed by August 6, 1909. The city of Montreal, in the meantime, to protect the existing structure to the satisfaction of the Board's engineer.

1 GEORGE V., A. 1911

1626. Application of the municipal corporation of the township of Wainfleet, under section 250, for order directing the Grand Trunk Railway to place a culvert under its Buffalo and Lake Huron division, where the same crosses the side road between lots 23 and 24, concession 1, township of Wainfleet. (Adjourned hearing.) (File 9602 Case 4660.)

Order issued by consent giving leave to the Grand Trunk Railway Company to construct culvert by June 27, 1909, according to the plan filed. The township to pay the railway company \$300 upon the completion. The railway company to maintain the work at its own expense.

1627. Application of the municipal corporation of the township of Canboro, county of Haldimand, Ontario, under section 237, for order directing the Canada Southern Railway (operated by the Michigan Central Railroad) to provide and construct a suitable highway crossing over their line of railway to connect the highway, laid out by the said corporation, where the same intersects lot No. 8 in the 3rd concession of the township of Canboro. (File 7732. Case 4385.)

Application dismissed.

1628. Application of the municipal council of Ekfrid, under section 251, for order approving work on McGugan-Currie drain, along, under, and across the tracks of the Grand Trunk Railway. (File 4921. Case 4633.)

Upon the drain in question being carried to the north of the right-of-way across lots 21 and 22, concession 1, Ekfrid, the Board granted leave to cross the main and air line of the Grand Trunk Railway Company east of Glencoe, as shown upon the plan, the railway company to construct and maintain the culvert according to the plan. The size of the culvert on the main line to be settled by the Board's engineer in the event of any dispute.

1629. Application of the township of Raleigh, under section 251 of the Railway Act, for authority to construct what is known as 'Pike's Drainage Works' across the right-of-way of the Grand Trunk Railway Company of Canada in the township of Raleigh, Ont. (File 5389. Case 1997.)

The Board disapproved of the plan of the works, but granted leave to the township to file new ones, if so advised.

1630. Application of township of Eldon, county of Victoria, under section 250, for authority to construct a drainage system across right-of-way, in west half lot 20, concession 5, township Eldon. (File 9220. Case 4412.)

Order made on consent that culvert be constructed under the railway company's right-of-way. The railway company to supply the necessary material.

1631. Application of the municipal council of the township of Rochester, county of Essex, for order under provisions of section 250 approving the James Strong Drain Award made by James S. Laird, O.L.S., township engineer, for the purposes of the Ditches and Watercourses Act, in the township of Rochester. (File 9628. Case 4672.)

Order made approving of the plans and specifications for the culvert.

1632. Application of the Department of Agriculture of the government of the province of Ontario, under section No. 284, for order directing the Grand Trunk Railway to provide station accommodation for traffic at or near the point where the company's line of railway from Hamilton to Niagara Falls crosses the town line between the townships of Clinton and Louth in the county of Lincoln and province of Ontario. (File 8644. Case 4719.)

Order made directing station plans to be filed by August 22, 1909, the station to be constructed within 60 days from the filing of the plans. Applicants to furnish the additional land required. Order No. 7613, July 22, 1909. Leave granted to appeal to the Supreme Court of Canada.

1633. Complaint of the municipal council of the township of Walpole that the Grand Trunk Railway Company has removed the railway siding at Garnet, Ontario, and asks that the same be replaced. (File 8946.)

SESSIONAL PAPER No. 20c

Order made that the railway company shall at once erect and maintain at Garnet, Ontario, a shelter to accommodate traffic at that point.

1634. Complaint of the municipal council of the township of Walpole alleging dangerous condition of the level crossing of the Grand Trunk Railway in the village of Jarvis, Ontario. (File 9437. Case 4868.)

Order made that railway company within 30 days from date of order file plans for gates at crossing and keep and install the same within 90 days after approval of the plans, 20 per cent of the cost of installing gates and equipment to be paid out of the Railway Grade Crossing Fund. After the gates are installed, township of Walpole to pay railway company ten per cent of the cost of operation. See order 9191, dated January 6, 1910.

1635. In *re* accident on the Grand Trunk Railway at West Road level crossing, West Toronto, Ontario, on October 8, 1908. (File 8673.)

Order to go for interlocking plant. Proper protection to be agreed upon by the parties; otherwise by an engineer of the Board. One-third of the cost to be borne by each of the three interested parties.

1636. Application of the Byron Telephone Company, under section 245 of the Railway Act, for leave to install a telephone in the station of the Grand Trunk Railway Company at Komoka, Ontario. (File 7754.)

Dismissed.

1637. Application of the Caledon Telephone Company, under section 245 of the Railway Act, for order directing the Canadian Pacific Railway to permit the Caledon Telephone Company to make telephonic connection and communication with the ticket offices in the station and with the freight offices of the railway company at Caledon, Cataract Junction, Melville Junction, Alton, Erin, Hillsburg and Orton, Ontario. (File 8762. Case 4118.)

Judgment of the Assistant Chief Commissioner providing for a form of agreement between the telephone and railway companies in this and similar applications being filed upon which an order can be based.

1638. Complaint of J. R. Govenlock, Seaforth, Ontario, alleging excessive charges on two carloads of hay from Walton, on Canadian Pacific Railway Goderich line to Sundridge, Ontario, on which the Canadian Pacific Railway and Grand Trunk Railway charged their local rates respectively. Adjourned hearing. (File 9205.)

NOTE.—This will involve consideration by the Board of failure of the companies to file joint tariffs between their respective lines.

Stands for complainant to file particulars of his complaint; otherwise, it will be dismissed.

1639. Application of the Don Valley Brick Works, of Toronto, Ontario, for order directing the Grand Trunk Railway to make reparation on shipments of enamelled brick made by them between July 10 and November 7, 1908, for use in the construction of the Royal Victoria Museum at Ottawa, Ontario. (File 9099. Case 4347.)

Application dismissed.

1640. Complaint of E. B. Sutton, Bala Falls, Ontario, alleging excessive freight rates charged by Canadian Pacific Railway on bricks in carloads, from Milton, Ontario, to Bala Falls, Ontario. (File 9694.)

Application dismissed.

1641. Application of E. S. Brennen, of Hamilton, Ontario, under section 315 of the Railway Act, for an order directing the Grand Trunk Railway Company of Canada to refund alleged overcharge on shipment from Wiarton to Hamilton, Ontario. Adjourned hearing. (File 9430. Case 4538.)

Application dismissed.

1642. Complaint of W. Booth Lumber Company, Limited, Toronto, Ontario, alleging excessive interswitching charges by Canadian Pacific Railway and Grand

1 GEORGE V., A. 1911

Trunk Railway. (Complainant's siding said to be outside four mile limit.) (File 4459. Case 1182.)

Application withdrawn without prejudice to the rights of the applicant to renew same.

1643. Complaint of the Keystone Camping Club, of Pittsburg, Pa., alleging refusal of the railways to issue through tickets and provide through baggage arrangements from Pittsburg to South Maganetawan River Crossing, a local station of the Canadian Northern Ontario Railway, thirty-five miles north of Parry Sound, Ont. (Adjourned hearing.) (File 6812.)

Order made that the Grand Trunk Railway and Canadian Pacific Railway Companies honour from International boundary, and in respect of their lines in Canada, any through ticket and through baggage arrangements issued and provided by initial United States railways from points in the United States to non-competitive points on the Canadian Northern Ontario Railway.

1644. Application of the Plymouth Cordage Company of Welland, Ont., for an order directing the Grand Trunk Railway Company to refund them \$884.01, alleged excessive freight charges collected on shipments of sand and gravel from Niagara Falls, Ont., to Welland, Ont., from November 23, 1905, to February 25, 1906. (Adjourned hearing.) (File 9092.)

Application dismissed.

1645. Complaint of the Plymouth Cordage Company of Plymouth, Mass., and Welland, Ont., that the freight rates of the railway companies on their shipments from Welland, Ont., to Canadian points are unjustly discriminatory with respect to rates from North Plymouth, Mass., Auburn, N.Y., Detroit, Mich., and Chicago, Ill.

Also request that reparation be made on a number of shipments made by the complainants to points on the lines of the Grand Trunk Railway, Canadian Pacific Railway, Toronto, Hamilton and Buffalo Railway, Wabash Railway, Michigan Central Railway, Père Marquette Railway Companies. Covered by files 9250, 9279, 9280, and 9281.. (Adjourned hearing.) (File 9278. Case 4458.)

Order made dismissing the complaint but providing that the Michigan Central Railroad Company be authorized to refund the sum of 2 cent per 100 pounds in respect of four carloads of binder twine shipped to Ogdensburg and Wheatley, Ont., by the complainants.

1646. Application of the Canadian Manufacturers' Association *re* classification of automobiles, proposed by the Canadian Freight Association. (Filed 4364. Case 3712.)

Order made refusing application for variation in Canadian classification rating of automobiles and other self propelling vehicles taken apart by changing to double first-class and that this change be incorporated in the forthcoming amendments of the Canadian Classification.

1647. Application of the corporation of the city of Toronto, under Sections No. 315, 317, 323, 341, and 77 for order compelling Grand Trunk and Canadian Pacific Railway Companies to provide commutation rates to and from city of Toronto and suburban municipalities within a certain radius. For an order compelling railways to cease discriminating unjustly between the city of Toronto and other cities of same or greater size with reference to tolls, and discriminating between towns of Oakville and Streetsville and the towns of Brampton, Whitby, and Oshawa or others similarly situated. (File 9351. Case 4492.)

Order made providing for a stated case to be submitted to the Supreme Court of Canada.

1648. Application of the Coniagas Mines, Limited, and the Coniagas Reduction Company, Limited, for an order disallowing such portions of the rates on silver ore charged by the Grand Trunk Railway Company and the Canadian Pacific Railway Company, shipped from Cobalt to the works of the Coniagas Reduction Company, Limited, at the township of Thorold, Ontario. (Adjourned hearing). (File 9052.)

SESSIONAL PAPER No. 20c

Withdrawn by the applicant without prejudice to the right to renew the application in the event of the parties not being able to adjust their differences.

1649. In re order of the Board dated February 23, 1905, granting leave to the Grand Trunk Railway Company to expropriate certain lands in the city of Toronto for the purpose of a union station, and in the matter of the taking of further evidence on the question of the existence or non-existence of streets or highways south of the Esplanade in the city of Toronto, Ont. (Adjourned hearing). (File 588. Case 3322.)

Order made that the Railway Companies on or before June 9, 1911, construct a four track viaduct as set out in the order. See order 7200, dated June 9, 1909. Appeal from the order of the Board made to the Supreme Court of Canada.

1650. Application of the Canadian Pacific Railway under Section No. 257 of the Railway Act, for approval of bridge at mile 58.5 Cobb's lake, Montreal and Ottawa section. (File 3429. Case 4397.)

Application granted.

1651. Complaint of the Council Board of the township of Schreiber, Ont., respecting alleged dangerous crossing of the Canadian Pacific Railway Company at Winnipeg street, in the village of Schreiber, Ont. (Adjourned hearing.) (File 9437. Case 4691.)

Plans of subway approved and consent agreement ratified upon subway being 18 feet. Station location also approved.

1652. Application of the Grand Trunk Pacific Railway under Section 178, for authority to take right of way 200 feet in width across government lands between eastern line township 12, R. 13, W. 1, Mer., and eastern boundary B.C. (This stands over from Ottawa April sittings for material to be completed. (Adjourned hearing.) (File 9085. Case 4343.)

Application refused.

1653. Application of the Canadian Pacific Railway, as lessees Georgian Bay and Seaboard Railway, under section No. 177 of the Railway Act, 1903, for order granting leave to cross the tracks of the Grand Trunk Railway near Eldon, Ont. (File 2648.)

Application withdrawn.

1654. Application of the Canadian Pacific Railway on behalf of the Georgian Bay and Seaboard Railway, under section 177 of the Railway Act, 1903, for order authorizing the applicants to cross with its tracks the tracks of the Grand Trunk Railway at Lindsay, Ontario. (File 3023.)

Order made granting leave to cross by means of an overhead crossing.

1655. Complaint of R. B. Faith, Ottawa, Ont., Miss E. E. Betts, et al. alleging uncleanly condition of passenger coaches on the Ottawa and New York Railway. (File 8434.)

Stands for further consideration and inspection from time to time.

1656. Protection of highway crossings of Canadian Pacific Railway, Grand Trunk Railway and Boston and Maine Railway Companies on College Street, Lennoxville, Quebec. To be spoken to. (File 419. Case 842.)

Order confirmed.

1657. Application of Messrs. Cameron & Company, under sections 222 and 227 for authority to construct a line of railway connecting their private siding with main line of Grand Trunk Railway at Aylen Lake Station, Ont. (File 8768. Case 4121.)

Order made subject to the execution of agreement between the applicants and the railway company.

1658. In re complaint of corporation of city of Montreal, Quebec, against rates, services, and operation of Montreal Park and Island Railway, and in re order of the Board, No. 6805, April 6, 1909, directing the Montreal Street Railway to show cause why it should not join with the Montreal Park and Island Railway in establishing a

1 GEORGE V., A. 1911

through route and through rates with the said Montreal Park and Island Railway. (Adjourned hearing.) (File 9527.)

Order made in accordance with judgment of Chief Commissioner delivered at the hearing. 30 days' stay granted.

1659. Application of Geo. H. Watson, of the city of Toronto, Ont., under sections 26, 30 and 258 of the Railway Act, and such other provisions of the Act as are applicable thereto declaring that the plan, profile and book of reference deposited by the Calgary and Edmonton Railway Company, or by the Canadian Pacific Railway Company, the lessees of the said railway company in the Land Titles Office for the North Alberta Land Registration District, on the 26th day of May, 1905, is not in accordance with the provisions of the said Railway Act relating thereto, and that the deposit of this plan, profile and book of reference so far as the same affects lots numbers fifty-seven (57), fifty-eight (58), fifty-nine (59) and sixty-three (63), all in block nine (9) of the Hudson Bay Mining Company's Reserve, Edmonton, be cancelled and annulled and declared to be void and of no effect as against the petitioners.

And in the alternative for an order that under any proceedings taken or to be taken to expropriate the said lands the compensation or damages to be paid by the said company in respect of the lands of the petitioners shall be ascertained with reference to the date of the service upon the petitioner of the notice to expropriate the said lands and not the date of the deposit of the said plan, profile and book of reference. (Adjourned hearing.) (File 1418. Case 911.)

By consent similar order to go as in the McDougall and Secord case. (See file 1418. Case 4449.)

1660. In *re* order of the Board requiring railway companies subject to its jurisdiction to install fire extinguishers in passenger cars.

NOTE.—Railway companies having failed to comply with the Board's orders will be required to show cause why the penalty for such failure should not be enforced.

Time extended to run from November 1, 1908.

1661. Consideration of draft order of the Board in the matter of complaint against railway companies for non-compliance with provisions of the statute regarding fences, cattle-guards and public railway crossings. (File 9994. Case 4897.)

Order made.

1662. Application Quebec, Montreal and Southern Railway under section 227 for authority to extend their terminal at St. Lambert, Quebec, so as to form a connection between the Quebec, Montreal and Southern Railway and Rouses' Point Division of Grand Trunk Railway. (File 6380. Case 2705.)

Application dismissed.

1663. Application of the Vancouver, Victoria and Eastern Railway under section 227 for approval of crossing of the British Columbia Electric Railway on Harris Street, Vancouver, British Columbia. (File 10203.)

Application granted. Crossing to be protected by a half interlocker to be installed and maintained at the expense of the applicants.

1664. Application of the Vancouver, Victoria and Eastern Railway under section 227 for authority to cross the tracks of the British Columbia Electric Railway on Hastings Street, Vancouver, British Columbia. (File 10204.)

Application granted. Crossing to be protected by a half interlocker to be installed and maintained at the expense of the applicants.

1665. Application of the Times Publishing Company, of London, England, under the Railway Act, for an order directing the Canadian Pacific Railway Telegraph, Great Northwestern Telegraph and Western Union Telegraph Companies to transmit press-messages to the Marconi Wireless Station at Glace Bay at the same rates as charged to other points along Atlantic coast of Canada. (File 10078.)

Application refused. Judgment of Chief Commissioner orally given. Judgment that order asked for cannot now be made but application to stand for consideration along with general telegraph question.

SESSIONAL PAPER No. 20c

1666. Application of the Commercial Acetylene Company, New York, *re* express companies operating in Canada, subject to the jurisdiction of the Board, to classify for transportation acetylene gas when shipped under the so-called 'safety storage system.'

NOTE.—The Board will consider the question whether it has jurisdiction to make the order asked for, the point of jurisdiction not having been argued before the Board when the matter was last heard. (File 8801. Case 4146.)

Order made rescinding orders 6167 and 6366, dated respectively the 4th and 22nd February, 1909.

1667. Complaint of Downing's American Despatch against the charge made by the Canadian Pacific Railway Company of the local rate from Fort William, Ontario, to Winnipeg, Manitoba, on their shipments from Europe instead of *pro rata* proportion of lake and rail rates agreed upon by the Canadian Pacific Railway and boat lines. (File 9413.)

Application refused in accordance with the judgment of the Chief Commissioner delivered at the conclusion of the hearing.

1668. Complaint of Messrs. C. E. Plain & Co., of Ottawa, Ontario, alleging excessive rates charged by the Canadian Pacific Railway Company on shipments of apples from Picton to Smiths Falls as compared with rate from Picton to Ottawa. (File 8939.)

Complaint dismissed. For judgment of the Chief Commissioner, dated May 20, 1909, see Appendix.

1669. Complaint of Messrs. Stark Bros., Co., Limited, of Toronto, Ont., alleging excessive freight rates charged on a car of corn from Buxton, Ont., to Bannockburn, Ont. (File 9956.)

Application dismissed.

1670. Application of the Canadian Portland Cement Company, Limited, Toronto, Ontario, under sections 315 and 334 of the Railway Act, for an order directing the Grand Trunk and Bay of Quinté Railway Companies to establish and maintain a through joint rate on soft coal to Marlbank. (File 10114.)

Order made directing the railway companies to publish and file with the Board a tariff of joint rates on bituminous coal from Black Rock, N.Y., and Suspension Bridge, N.Y., to Marlbank, of \$1.43 per ton of 2,000 lbs. on a minimum weight of 15 net tons per carload with certain exceptions, as set out in order. See order 7495, dated June 25, 1909.

1671. Application of the Transportation Bureau of the Montreal, Quebec, Board of Trade, for an order directing a reduction on the second class rating on ingot tin in the Canadian Classification to third class, as in the Official Classification. (File 9428.)

Order made dismissing the application.

1672. Consideration of general terms and conditions of carriage to be embodied in bill of lading for the handling of traffic by railways subject to the jurisdiction of the Board. (File 3678.)

Order issued settling form of bill of lading.

1673. Application of the city of Toronto, under sections 237 and 238 of the Railway Act, directing the Grand Trunk Railway Company of Canada to protect the crossing of Eastern avenue in the city of Toronto, by the line of the Toronto Belt Line Railway by gates and watchman, and the cost of same to be at the expense of the said railway, as provided by the agreement between the Toronto Belt Line Railway Company and the corporation of the city of Toronto, dated July 3, 1891. Adjourned hearing. (File 8970. Case 4264.)

Application dismissed.

1674. Application of the corporation of the city of Toronto, under section 186 of the Railway Act, 1903, for an order permitting the said corporation to construct a

1 GEORGE V., A. 1911

high level bridge across the Don improvement and the tracks of the Canadian Pacific Railway Company and the Grand Trunk Railway Company crossing King street (or Queen street) East, in the city of Toronto, and for an order determining the proportion to be borne by the said railways and other parties interested of the costs and expenses incident to the construction and maintenance of said bridge, including damages to any property which may be injuriously affected thereby. Adjourned hearing. (File 1621.)

Application dismissed.

1675. Application of the Grand Trunk Railway System of Canada, and the Canadian Pacific Railway Company, under section No. 30 of the Railway Act, and in pursuance of the provisions of order No. 6129 of the Board, dated January 12, 1909, for an order fixing the terms upon which the Canadian Northern Ontario Railway Company shall use the Union Station property at Toronto, Ontario. (File 588.5.)

Application refused.

1676. Consideration by the Board of the question of raising the bridges of the Grand Trunk Railway Company, and the Niagara, St. Catharines and Toronto Railway Company, at:—

1. Public road between lots 16 and 17;
2. Niagara, St. Catharines and Toronto Railway bridge;
3. Merrit street bridge;

to the standard height of 22 feet 6 inches required by the Board. Adjourned hearing. (File 8907.)

Grand Trunk Railway undertakes to raise bridge between lots 16 and 17. No order made.

1677. Complaints of the village of Burlington, Ontario, alleging dangerous condition of the Grand Trunk Railway crossing in the westerly limits of the village of Burlington, Ontario. (File 9416.)

No order made. Company explained the plan and situation.

1678. Complaint of the municipal council of the corporation of the county of Essex alleging dangerous condition of crossing of the Michigan Central Railroad Company, and the Windsor, Essex and Lake Shore Rapid Railway Company, on the town line between the townships of Sandwich East and Sandwich West, Ontario. (File 9437. Case 4698.)

Order made for watchman pending the installation of gates. The gates to be installed by August 31, 1909. The expense of the watchman and of gates to be borne by the Michigan Central Railroad Company.

1679. Application of the municipal corporation of the township of Canboro, in the county of Haldimand, Ontario, under section 237 of the Railway Act, for an order directing the Canada Southern Railway Company, operated by Michigan Central Railroad Company, to provide and construct a suitable highway crossing over its line of railway to connect the highway laid out by the said corporation where the same intersects lot No. 8, in the third concession of the said township of Canboro. (File 7732. Case 4385.)

Order made directing railway company to construct highway crossing at its own expense. See order No. 7254, dated June 15, 1909.

1680. Application of the Essex Terminal Railway Company, under sections No. 177 and 167 of the Railway Act, for order authorizing the taking of additional lands without the consent of the owners. Such lands belong to Windsor Fair Grounds and Driving Park Association and others. (File 10194.)

Order to go in terms of consent filed.

1681. Application of the Canadian Pacific Railway Company, under sections Nos. 222 and 227, for authority to construct a branch line from a point at London section mile 10-15, lot 8, concession 4, township of Etobicoke, to point on Grand

SESSIONAL PAPER No. 20c

Trunk Railway, lot 9, concession 1, township of Etobicoke and 'Y' section. (File 10112.)

Order made authorizing the construction of the branch line.

1682. Application of the Canadian Pacific Railway Company, under section 186, for approval of diversion of St. Clair avenue and Scarlet road, township of York, and for the opening of one square crossing instead of two crossings now existing. Adjourned hearing. (File 1493. Case 487.)

Application withdrawn.

1683. Complaint of the Board of Trade of Dawson, Y.T., respecting freight rates of the White Pass & Yukon Railway Company.

Counsel for complainants to file and serve the complaint in re ore shipments. Former complaint stands for argument.

1684. Complaint of W. Booth Lumber Company, Limited, Toronto, Ont., alleging excessive interswitching charges by the Canadian Pacific Railway and Grand Trunk Railway. (Complainants siding said to be outside four mile limit.) (File 4459. Case 1182.)

NOTE.—The matter to be spoken to is the affidavit of Moses A. Fullinton, Civil Engineer, Toronto, dated May 10, 1909, setting forth that the distance is beyond the four mile limit.

Application withdrawn without prejudice to the rights of the applicant to renew.

1685. Application of the Retail Coal Dealers' Association, for an order under the Railway Act respecting:

1. Receiving of coal from shippers.
2. Receiving of coal from other railways.
3. Weighing of coal at port of entry.
4. Weighing cars uncoupled.
5. Weighing at nearest scale to destination.
6. Weighing as soon as unloaded.
7. Collect freight only on tonnage reaching destination.
8. Monthly settlement of shortage.
9. Re time of settlement.
10. That railways put in scales.

(NOTE). This matter has been put down to be spoken to before an order is issued entitling coal merchants, should they desire it, to have coal weighed at the gateway or point of entry into Canada. (Adjourned hearing.) (File 6026. Case 3625.)

Order made for the weighing of cars at the port of entry free of charge. Order to apply only to points of entry and delivery in the province of Ontario.

1686. Approval of tariffs of tolls of express companies pursuant to the provisions of section 348 of the Railway Act. (File 4214. Case 1503.)

Stands pending completion of general express inquiry.

1687. Application township of Ekfrid, county of Middlesex, to amend order of Board No. 6914, dated April 27, 1909, authorizing construction of a drain under Grand Trunk Railway Company's tracks.

Application dismissed. Leave reserved to applicant to make fresh application.

1688. Re Essex Terminal. Mr. Wilson to state in writing the respects wherein he desires the order amended to comply with the judgment of the late Chief Commissioner, first submitting the written statement to Mr. Coburn. (File 3704. Case 1680.)

Order made refusing application to rescind orders of 13th and 22nd March, 1907, and June 5, 1906. Windsor, Essex and Lake Shore Rapid Railway Company authorized to maintain and operate its railway along the gravel road. Order of the Board No. 6768, dated March 26, 1908, and orders 4817, 5201 and 1139 rescinded in

1 GEORGE V., A. 1911

so far as they direct the installation of interlocking plants at the crossings in question. See order No. 8993, dated December 15, 1909.

1689. Application of the municipal corporation of the village of Coteau, Quebec, for an order directing the Grand Trunk Railway Company, to open Omaha street, and Rue de l'Eglise claimed to have been closed by the railway company. (Adjourned hearing.) (File 8642.)

Application dismissed.

1690. Application of Joseph Ethier, Montreal, Quebec, under Section 29 of the Railway Act to amend order of the Board January 23, 1905, authorizing Grand Trunk Railway to take certain lands then the property of the city of Ste. Cunegonde and in said order described. (File 1355.1.)

Application dismissed.

1691. Application of William Payette of the city and district of Montreal and others, for order under sections 237 and 238 of the Railway Act directing the Canadian Pacific Railway to construct a tunnel under its line where the same crosses Iberville street. (File 10088.)

Order made that plans be filed within twenty days. Width of subway and other particulars to be to the satisfaction of Engineer of Board. Work to be started within thirty days and finished within six months after the approval of the plans.

1692. Application of Marshall Hughes, under the Railway Act, for an order that the Canadian Pacific Railway Company's plan of Lot 50, Block 9, Hudson Bay Reserve, Edmonton, be cancelled in so far as it affects the said lands. (File 1418. Case 911.)

Withdrawn by applicant.

1693. Application of Thomas Wilson, Ottawa, Ont., under Sections 252, 253 and other sections relating thereto, for an order directing the Canada Atlantic Railway Company, to provide and construct a suitable crossing where the company's railway abuts the land of the said Thomas Wilson, and at the point indicated in the description set out in the application. (File 10288.)

Order made granting applicant leave to continue use of crossing in the nature of a farm crossing. Conditions to be inserted in order as stated at hearing.

1694. Application of the Canadian Northern Railway under Section 227 for authority to construct a line across the Canadian Pacific Railway Company, near Jacques Cartier, at Mile 49.3 south from Hawkesbury, Ontario. (File 6551. Case 2764.)

Withdrawn.

1695. Application of the Grand Trunk Railway Company of Canada for a decision on the question of interlocking plants and responsibility of the senior company for accidents arising out of the negligence of the men in charge. (Application 7815.)

Railways to submit terms of standard order.

1696. Consideration by the Board of the question of providing better protection of wooden trestles and bridges on lines of railway subject to the jurisdiction of the Board. (Application 4966. Case 1860.)

The Board decided not to take any further action in the matter at present.

1697. Application of the Canadian Pacific Railway Company, under sections 222 and 237, for authority to construct a spur at Mile End, in town of St. Louis, city of Montreal, to the premises of Messrs. Francis Hyde & Company, crossing Sanguinet street. (File 10413.)

Order made in terms of consent filed.

1698. Application of the city of Toronto, under section 237, for authority to extend Wilton street easterly from River street across the River Don by means of a

SESSIONAL PAPER No. 20c

bridge across the tracks of the Grand Trunk, Canadian Pacific and Northern Ontario Railways upon the Don Improvement, Toronto, Ontario. (File 10173.)

Order made in terms of consent filed.

1699. Application of the Canadian Pacific Railway Company, under section 229, for order directing the Canadian Northern Railway to install, maintain and operate an interlocking plant, at its own expense, at the point where its line crosses the line of the Canadian Pacific Railway at Gladstone, Manitoba. (File 80.1.)

Order made to install interlocking plant. Applicant company to pay the whole cost of providing and maintaining the same. The work to be completed by October 1, 1909.

1700. Complaint of the Board of Trade of Dawson, Y.T., respecting freight rates on the White Pass and Yukon Railway Company. (Application 2030.)

Stands for further argument.

1701. Application of the Montreal Park and Island Railway Company for leave to appeal, and application of the city of Montreal to revise the order made. (Application 9527.)

Order made granting leave to appeal on question of law.

1702. Application of the Canadian Pacific Railway to vary terms of order of the Board June 3, 1909, in the matter of the application of the city of Toronto for order directing the Grand Trunk Railway Company of Canada and the Canadian Pacific Railway Company to carry York street and certain other streets under the tracks of the said railway companies. (File 588. Case 3322.)

Order made that railway companies within two years from date construct four-track viaduct along the water front, Toronto. See order No. 7200, dated June 9, 1909.

1703. Application of the Canadian Freight Association, under section 321 of the Railway Act, for an order approving of the proposed supplement to the Canadian Classification, namely, No. 1 to Classification No. 14.

NOTE.—The Board will consider the question of classification of silos, wooden tanks, vats knocked down, referred to in paragraph 2 of order of the Board, dated May 10, 1909. (File 9428. Case 4535.)

Order made that order 7023, dated May 10, 1909, be amended by striking out clause 2 of said order.

1704. Application of the Grand Trunk Railway Company of Canada, under the Railway Act for leave to appeal to the Supreme Court of Canada, from the order of the Board, dated May 19, 1909, in the matter of the complaint of the British American Oil Company *re* refusal of the Grand Trunk Railway to carry crude oil, originating at Stoy, Illinois, and destined to Toronto, Ontario, at fifth class rate in accordance with the Official Classification. (File 7529. Case 3269.)

Application granted. Grand Trunk Railway Company to submit questions within a week. Appeal to go down at October sittings, Supreme Court of Canada.

1705. Application of Hamilton, Waterloo and Guelph Railway, under the Railway Act, for approval of amended location from village of Sheffield to and into the town of Galt, Ontario. (File 3298.4.)

Order made contingent on consent being filed from the town of Galt and township of Beverly.

1706. Application of the Canadian Southern Railway, under sections 237 to 240 inclusive, and section 257 of the Railway Act, for authority to construct a subway at the Tecumseh road, in the township of Sandwich West, in the county of Essex, Ontario, in accordance with the plans, profiles and specifications filed, also authorizing the diversion of the Tecumseh drain, and to construct a water pipe in, upon, along and across Wellington avenue, and Tecumseh road, and apportioning the cost of the said works; also for an order approving, under section 258 of the Railway Act, the location of the proposed station as shown on the plan. (File 1961.2.)

1 GEORGE V., A. 1911

Order made in accordance with plan filed; but providing for 30-foot subway 5-foot sidewalk on either side; drainage as per plan; water pipe may be placed on street but railway company to indemnify municipality; station site to stand over until September sittings.

1707. Application of the Grand Trunk Pacific Railway, under section 162, for an order to correct plan and book of reference of their main line north, so far as it affects block 17; also so far as it affects branch line through blocks 32, 27 and 17 of the Hagmann estate, north of Edmonton, Alta. (File 2236.30.)

Order made without prejudice to the rights of Marsan *et al.*

1708. Application of the Vancouver, Victoria and Eastern Railway, under section 167, for order authorizing the amended location of branch line from Sapperton to Fraser River Lumber Company's mills, New Westminster, B.C., across tracks of the Canadian Pacific Railway. (File 2561.1.)

Order made. Full interlocking to be provided at the expense of the applicants.

1709. Application of the National Transcontinental Railway, under section 227, for authority to cross the tracks of the Canadian Northern Railway Company at or near St. Boniface, Manitoba. (File 10354.)

Application refused. National Transcontinental to find another location.

1710. Application of the National Transcontinental Railway, under section 227, for authority to cross the tracks of the Canadian Pacific Railway Company at or near St. Boniface, Manitoba. (File 10384.)

Application refused. National Transcontinental to find another location.

1711. Application of the Canadian Northern Ontario Railway Company, under section 159, for approval of location through the townships of Gloucester and Nepean, county of Carleton, Ontario, from mileage 53.91 to 57.42 west from Hawkesbury. (File 2342.3.)

Order made approving location. Application for connection withdrawn.

1712. Application of the Canadian Northern Ontario Railway Company, under sections 227 and 228, for authority to cross and connect the tracks of the Ottawa and Prescott Railway, at mileage 56.6 west from Hawkesbury, and connect with Canadian Pacific Railway at mileage 57.17 west from Hawkesbury, Ontario. (File 10823.)

Order made providing interlocking plant to the satisfaction of the Board's engineer.

1713. Application of the Canadian Northern Ontario Railway Company, under section 178, for authority to take part of lot 12, con. F, township of Medora, belonging to C. H. Woodward, for the purposes of avoiding a sink hole. (File 10387.)

Order made by consent.

1714. Consideration of the question of proper protection at the railway crossing of Raglan Street, Renfrew, Ontario, where it is crossed by the tracks of the Canadian Pacific Railway Company and the Kingston and Pembroke Railway Company. (Adjourned hearing.) (File 686.)

Order made providing for installation of gates at Raglan street. The question of the cost and operation reserved. Bell at Raglan street to be removed to Argyle street.

1715. Application of Herbert Bingham and Joseph Quenneville, of the unincorporated village of Crysler, in the township of Finch, in the county of Stormont, Robert Stevens and Thomas Fleming of the said township of Finch, and Louis A. Landry of the township of Cambridge, in the county of Russell, for an order directing the Ottawa and New York Railway Company to rebuild their railway station at the said unincorporated village of Crysler, at a point on the north east side of their railway line about 1.657 feet in a northwesterly direction from the site of their previous station. (File 8699. Case 4077.)

Application refused.

SESSIONAL PAPER No. 20c

1716. Application of the town of Prescott, Ontario, for an order, under section 250, for authority to lay a sewer pipe under the Canadian Pacific Railway at eastern end of the town of Prescott, Ontario. (File 10105.)

Order made in terms of consent filed.

1717. Application of the Montreal, Park and Island Railway, under the Railway Act, for approval of proposed extension of its line along St. Denis Street, in the city of Montreal, Que. (File 10496.)

Application dismissed.

1718. Application of the Grand Trunk Railway Company, under section No. 29, for order amending order of the Railway Committee of the Privy Council, dated September 3, 1892, approving of the place and mode of protection of the crossing by the line of the Davenport Street Railway Company of the line of the Grand Trunk Railway (Northern Division), Davenport Road, township of York, now in the city of Toronto, by directing the Toronto Suburban Railway, to install and maintain at their expense, derails in their tracks on each side of the said crossing, and to interlock the same with semaphores to be installed and maintained by the applicant company at the expense of the Toronto Suburban Railway. (File 10735.)

Order made for a half interlocking plant to be installed. Distribution of the cost as already provided for in previous order to remain.

1719. Application of the Toronto Suburban Railway for order amending order of the Railway Committee of the Privy Council, dated September 3, 1892, by reducing the amount paid by the Toronto Suburban Railway Company, for the construction, maintenance, operation and protection at Davenport Road, and apportioning the said cost against the municipal corporation of the township of York, the city of Toronto and the Grand Trunk Railway. (File 132.2.)

Order made amending order of the Railway Committee by providing for a half interlocking plant being installed in addition to the gates. Work to be completed by December 31, 1909. The Electrical Company's application to reduce the amount paid by it dismissed.

1720. Application of the Grand Trunk Railway Company of Canada, under sections 167 and 176 of the Railway Act, for approval of the revised location of the branch line to a point on Pacific Avenue, in the city of Toronto, opposite the northerly limit of certain lands owned by the Brunswick, Balke & Collender Company, which the Grand Trunk Railway Company were authorized to construct by order of the Board dated March 18, 1905, authorizing the Grand Trunk Railway Company to take possession of, use and occupy for the purposes of a portion of the right-of-way of the said branch line, mentioned in paragraph 1 of this application, certain lands and premises owned by the Canadian Pacific Railway Company, in the city of Toronto, containing an area of about 0.264 acres. (Files 1359. Case 3492.) (Adjourned hearing.)

Application refused.

1721. Application of the municipality of the township of Nepean, county of Carleton, Ontario, under section 235 to 238 inclusive, of the Railway Act of 1903, for order directing Canadian Pacific Railway to provide and construct a suitable highway crossing over the railway where it passes at the south end of Gainsboro Avenue, in the township of Nepean, such crossing to provide for means of uninterrupted travel from the Ottawa river and lands on the north side of the said railway to Scott Street, and lands on the south side of the railway. (File 10245.)

Order made for crossing at the expense of the applicants as to construction and maintenance.

1722. Application of the Grand Trunk Railway, under section 178, for authority to expropriate a portion of the estate of the late John Stewart and Mrs. Eva Caroline Carling on Besserer Street, Ottawa, Ontario. (File 10787.)

Order made for expropriation.

1 GEORGE V., A. 1911

1723. Consideration of the question of protection of Grand Trunk Railway street crossings at Place St. Henri and St. Ferdinand Street, Montreal. (File 9437.36.)

Order made for watchman to be placed at St. Henri and St. Ferdinand Streets. Costs to be borne by the railway company.

1724. Application of the Canadian Pacific Railway Company, under section 257 of the Railway Act, for approval of plans of proposed bridge over Moison creek, at mile 92.1 Windsor section, township of Rochester, Ontario. (File 3526.8.)

Order made approving plan.

1725. Application of the council of the town of Campbellford, Board of Trade, manufacturers, merchants and business men for order directing the Grand Trunk Railway Company to provide better passenger train connections between Campbellford and Toronto, Ont. (File 10330.)

Application dismissed.

1726. Consideration of the question of insufficient passenger and freight service furnished by the Grand Trunk Railway and Wabash Railway, between St. Thomas and Glencoe, Ontario. (File 2156. Case 3345.)

The Board decided not to interfere with the existing arrangement between the companies.

1727. Complaint of Rev. J. B. Grenier, of St. Tite, Que., respecting alleged inefficiency of the train service of the Canadian Northern Quebec Railway Company between Quebec and Montreal, also station accommodation at Heronville, Garneau, and St. Tite, Quebec. (File 8304.)

Complaint dismissed.

1728. Complaint of the residents of Watford, Ontario, alleging poor train service by the Grand Trunk Railway Company to and from Watford, Ontario. (File 9675.)

Complaint dismissed.

1729. Cost of installing and maintaining electric bells at highway crossings. (File 8802. Case 4147.) To be spoken to.

Board decided to take no further action at present in the matter.

1730. Consideration of circular No. 38 respecting the removal of all switch stands and other obstructions to a distance of six feet clear of the main line and in cases where high switch stands cannot be removed to this distance, they be replaced by dwarf switch, as well as the removal of all other obstructions. (File 10558.)

The matter dismissed. The Board, after hearing the railway companies, holding that it could not make an order.

1731. Application of C. P. Riel, under the Railway Act, for an order directing the Great Northern Railway Company to refund alleged overcharge on shipments of ties from Rykerts, B.C., to Portage la Prairie, Man. (File 9659. Case 4689.)

Leave given to refund on basis of 33 cents on shipments moving prior to February 12, 1908.

1732. Application of the Quebec Railway, Light and Power Company, under the Railway Act, for approval of new standard local passenger tariff No. 6, C.R.C. No. 8, to supersede C.R.C. No. 1 approved by the Board December 13, 1904. (File 10136.1.)

The Board delivered judgment allowing the advance of 2½ cents. Permission granted to renew the application at the end of the year. New tariff to be filed in the meantime.

1733. Application of the Dominion Millers' Association, under the Railway Act, for an order requiring the Canadian Pacific Railway Company to reduce its charges for the elevating and storing of grain at Fort William, Ontario, on the ground that they are excessive. (File 10542.)

Application refused.

1734. Application of the Manitoba Grain Growers' Association, under the Railway Act, for an order requiring the Canadian Pacific Railway Company to reduce

SESSIONAL PAPER No. 20c

their charges for elevation and storage at their terminal at Fort William to the same charges as they make for similar services at Owen Sound, east of the Lake, and requiring the Canadian Northern Railway Company at Port Arthur and the Grand Trunk Pacific at Fort William to make similar reductions in their storage charges to apply to their terminal elevators. (File 10542.1.)

Application refused in accordance with the judgment of the Chief Commissioner delivered at the conclusion of the argument. For judgment see Appendix.

1735. Complaint of the Fruit Growers against the Dominion and Canadian Express Companies of the new Queenston tariff.

Order made providing for the cancellation of the 30 cent tariff.

1736. Application of the Grand Trunk Pacific Railway, under section 159, for approval of location of its line of railway through town of Fort William, Ontario. (File 1519, Part III.)

Order made approving of the location of the applicant company's line through Fort William, subject to the terms and conditions contained in agreements between the parties dated March 29, 1905, and December 1, 1908. See order 8493, dated October 6, 1909.

NOTE.—The Grand Trunk Pacific Railway Company have appealed to the Supreme Court of Canada on the question of jurisdiction of the Board to make said order.

1737. Application of the Fort William Terminal Railway and Bridge Company, under section 167, for an order approving of revised location of its line of railway as previously approved by order of the Board No. 4195, dated December 24, 1907, said diversion being from a point on Christina street in the town of Fort William, thence crossing the Kaministiquia river and across islands Nos. two (2) and one (1) as shown on the plan on file with the Board. (File 4805.2.)

Order made approving of revised location. Order 7603, dated July 15, 1909.

1738. Application of the Canadian Pacific Railway Company, under section 222, for authority to construct a branch line to premises of Muirhead and Black, Fort William, Ont. (File 8158. Case 3710.)

Order made refusing the application.

1739. Application of the Canadian Pacific Railway Company, under section 237, for authority to construct branch line along Hardisty street, to premises of Muirhead and Black, in the town of Fort William, Ontario. (File 8158. Case 3711.)

Order made granting the application.

1740. Application of the Canadian Pacific Railway under section 257, for approval of overhead footbridge on Brown street, West Fort William, Ontario. (File 6586. Case 2311.)

Order made approving of the plan. Applicant to extend the bridge southerly over its tracks at its own expense.

1741. Application of the city of Fort William, Ont., under section 227, for authority to cross the main line of the Canadian Northern Railway with its street railway at Frederica Street, Fort William, Ont. (File 10865.)

Order made granting the application. The cost of providing and maintaining the interlocking plant to be divided equally between the applicant and the railway company.

1742. Application of the corporation of the city of Fort William, Ont., under sections 227, 235 and 247, to cross at level the tracks of the Canadian Pacific Railway Company with its electric street railway and with the necessary poles and wires to transmit power at the intersection of the lines of the Canadian Pacific Railway Company, at Pacific Avenue; also to construct a suitable highway crossing at the intersection of the lines of the Canadian Pacific Railway Company, at Pacific Avenue, Fort William, Ont. (File 10927.)

1 GEORGE V., A. 1911

Order made granting the application. The crossing to be protected by a half interlocker. The cost to be borne as provided in the agreement between the parties, dated December 14, 1908.

1743. Application of the Mt. McKay and Kakabeka Falls Railway Company, under section 227 of the Railway Act, for authority to cross the tracks of the Grand Trunk Pacific Railway Company, at Yonge Street and Montreal Street in the city of Fort William, Ont. (File 5585. Case 2278.)

Order made approving of the crossing. The crossing to be protected by a day and night watchman at the expense of the city of Fort William. A derailing plant to be installed by June 15, 1910.

1744. Application of the Mt. McKay and Kakabeka Falls Railway, under section 227 of the Railway Act, for authority to cross the tracks of the Canadian Northern Railway at Francis Street, in the city of Fort William, Ont. (File 5585. Case 2277.)

Application withdrawn.

1745. Application of the Mt. McKay and Kakabeka Falls Railway Company, under section 227 of the Railway Act, for authority to cross the tracks of the Canadian Northern Railway at Yonge Street, in the city of Fort William, Ont. (File 5585. Case 2279.)

Order made authorizing the crossing. The same to be protected by derails to be installed by the applicants at their own expense by June 15, 1910. In the meantime a day and night watchman to be kept at the crossing at the expense of the city of Fort William.

1746. Application of the Mt. McKay and Kakabeka Falls Railway Company, under section 227 of the Railway Act, for authority to cross the tracks of the Canadian Pacific Railway at McTavish Street, in the city of Fort William, Ont. (File 5585. Case 2280.)

Application withdrawn.

1747. Application of the Mt. McKay and Kakabeka Falls Railway Company, under section 227 of the Railway Act, for authority to cross the tracks of the Canadian Pacific Railway at Yonge Street, in the city of Fort William, Ont. (File 5585. Case 2281.)

Order made granting leave to the applicant company to cross and provide for installation of an interlocking plant. The applicant company to bear all costs of installation and maintenance.

1748. Application of the Canadian Northern Ontario Railway, under section 178, for authority to take part of lot 4, con. 4, township of McKim, district of Sudbury, for the purpose of securing the efficient operation of its railway and the construction of a 'Y.' (File 8311. Case 3821.)

Application withdrawn.

1749. Complaint of J. J. Beaumont and other property owners on and about Muskoka lake and district of Muskoka, Ont., *re* Canadian Northern Ontario Railway putting in a stone filling at Coulters Narrows, flooding the lands of complainants. (File 1334. Case 737.)

Order made directing the railway company to remove by April 1, 1910, to the satisfaction of the Board's engineer the obstructions placed at Coulters Narrows.

By consent the time was afterwards extended.

1750. Application of the Vancouver and Lulu Island Railway Company, under the Railway Act, for authority to cross with branch line Grenville street in the municipality of Point Grey, about 124 feet south of the boundary of the city of Vancouver, B.C. (File 10446.)

Order made granting the application.

1751. Application of the Canadian Northern Quebec Railway Company, under sections 222 and 227, for authority to construct a branch line to the premises of Warden King, Limited, Maisonneuve, Quebec, and also to cross the intervening tracks of the Montreal Terminal Railway. (File 10843.)

SESSIONAL PAPER No. 20c

Order made authorizing the construction of the spur and permitting applicant company to use in common with the Montreal Terminal Railway Company, as a joint track, a portion of the Montreal Terminal Railway Company's line, on basis of applicant company paying interest on one-half of the value of the line so used, and one-half of its maintenance on the usual terms according to wheelage. See order No. 7789, dated July 26, 1909.

1752. Application of the corporation of the town of Leamington, in the county of Essex, under section 237 of the Railway Act, for leave to open up and construct a street or highway over and across the right-of-way of the Leamington and St. Clair Branch of the Michigan Central Railroad Company, to connect the south or blind end of Hodgins Street with Elliott Street, in the town of Leamington. (File 10961.)

Application dismissed.

1753. Consideration of the question of length of sections; the Brandon, Saskatchewan and Hudson Bay Railway, to show cause why it should not be required to increase the staff of the sectionmen upon its line. (File 10170.)

Order made requiring two men and a foreman on each section of the road.

1754. Application of the Vancouver Power Company, Limited, under section 227, for leave to cross the tracks of the New Westminster and Southern Railway at Cloverdale, B.C. (File 11295.)

Order made granting the application and providing for the installation of an interlocking plant, to be completed by April 30, 1910. Applicant company to bear and pay the whole cost of providing, maintaining and operating the said plant. See order No. 8110, dated September 14, 1909.

1755. Application of the Nipissing Central Railway Company, under section 237 of the Railway Act, for approval of an overhead crossing of the Teniskaning and Northern Ontario Railway Company, in the town of Argentite, Ontario. (File 11013.)

Order made in terms of agreement between the parties.

1756. Application of the corporation of the village of Morrisburg, Ontario, for an order directing the Grand Trunk Railway Company to protect the Gravel Road crossing, so-called, just east of the station in the village of Morrisburg.

This application is set down for the purpose of enabling the parties to speak to the question of costs. (File 8802. Case 4147.)

Order to stand.

1757. Application of the city of Montreal to rescind, modify, or vary order of the Board, dated October 6, 1908, No. 5939, authorizing the Grand Trunk Railway Company to construct a branch line of railway to the premises of the Simonds Canada Saw Company, Jenkins Brothers, the Lang Manufacturing Company, and other industries. (File 3048. Case 3532.)

Stands *sine die* to be brought on if any one sues city later on.

1758. Petition of the residents of Seguin Falls, Ontario, and vicinity, for an order requiring the Grand Trunk Railway Company to construct a proper station building, including platforms, at Seguin Falls, Ontario. (File 11131.)

Order made that the railway company clean and keep clean the present station at Seguin Falls, and provide and maintain proper station seats and lamps; also construct a platform and other details as set forth in the order. See order No. 8142, dated September 14, 1909.

1759. Application of the Canadian Pacific Railway Company, as lessee exercising the rights and franchises of the Tilsonburg, Lake Erie & Pacific Railway Company, under Section 167 of the Railway Act, for approval of a revision of a portion of the location of the Ingersoll & Linwood extension of the latter company's line of railway from a point in the Ingersoll Station Grounds at mileage 0, northerly, to a point in Lot 2, Concession 3, in the Township of West Zorra, County of Oxford, at mileage 5.03. (File 303.1.)

Application dismissed.

1 GEORGE V., A. 1911

1760. Application of the Canadian Pacific Railway Company, as lessee of the T.L.E. & P. Railway Company, under Section 227 of the Railway Act, for authority to cross with its line of railway the double line of the Grand Trunk Railway Company in the town of Ingersoll, Ontario. (File 11249.)

Application dismissed.

1761. Application of the Grand Trunk Railway under Sections 222 and 227 for authority to construct branch line from a point west of Ingersoll station across Block 70, River Thames, into the premises of Noxon Company, Limited, and to cross and connect the railway sidings belonging to Noxon Company, Limited, at Ingersoll, Ontario. (File 11153.)

Application dismissed. Leave granted to renew the application if so advised.

1762. Application of the Grand Trunk Railway, under section 229, for authority to install, maintain, and operate a full interlocking plant at the crossing of the tracks of the Grand Trunk Railway, between Clifton Junction and Stamford, Ont., by the N. St. C. & T. Railway at the expense of the N. St. C. & T. Railway. (File 11514.)

Order made granting application. Crossing to be protected by half interlocking plant.

1763. Application of the Canadian Northern Ontario Railway, under Section 227, for authority to construct its tracks across the Grand Trunk Railway, near Powassan, on Lot 14, Concession 9, Township of Himsworth, Ontario. (File 11221.)

Application granted. Plans to be approved by the engineer of the Board. All questions arising in regard to double tracking at a future date by the Grand Trunk Railway Company reserved.

1764. Consideration of the question of requiring railways to equip their freight vans with coupler operating levers and with air-gauge and air-controller valves, to be located in cupola of caboose. (File 9000.1.)

Order issued providing for installation to be made by April 1, 1910.

1765. Application of the Grand Trunk Railway and Canadian Pacific Railway under section 29, for order reviewing and altering order of the Board No. 6258, dated February 10, 1909, regarding the removal of planking at highway and farm crossings during the winter months. (File 9558.)

Order made providing for the removal of planks at farm crossings. Such planks to be replaced when the snow is off the ground. Also that one plank next the rail may be removed at highway crossings under the same conditions. Order 6255, dated February 10, 1909, rescinded.

1766. Consideration of the issuance of order requiring railways to equip all snow ploughs with automatic couplers. (File 9524.)

No order made.

1767. Consideration of the issuance of an order to regulate the practice of railway companies whose lines cross the international boundary line into the United States, with reference to permitting United States Immigration Officials to examine passengers on trains bound for United States while in Canadian territory. (File 10938.)

The matter stands. The Board decided to make no order at present.

1768. Application city of Montreal re St. Catharine street bridge. (File 6578. Case 3736.)

Order made extending time to May 1, 1910.

1769. Application of the Grand Trunk Railway Company for authority to cross with two tracks, the track of the Montreal Park & Island Railway Company, at two different points near the eastern and western extremities of the new freight yard terminals at Turcot, P.Q. (File 6023. Case 2564.)

Order made upon the amending application providing for deviation of the Montreal Park & Island Railway.

SESSIONAL PAPER No. 20c

1770. Application of the Canada Atlantic Railway (G.T.R.) under Sections 222, 227 and 176, for an order authorizing the construction of a branch line from its tracks south of Sappers bridge, crossing under said bridge along and upon the lands used by the Ottawa Northern and Western Railway (C.P.R.) and the Hull Electric Railway Company, and across the tracks of the Hull Electric Railway Company, into the site of the Hotel Chateau Laurier now being erected on Major's Hill Park, Ottawa, Ont. (File 11577.)

Order made granting application.

1771. Application of the Canadian Lumbermen's Association, under Sections 315 and 323 of the Railway Act, for an order disallowing the lumber tariffs of the Canadian Pacific Railway Company, the Grand Trunk Railway Company, the Canadian Northern Quebec Railway Company and the Canadian Northern Ontario Railway Company. (Adjourned hearing.) (File 9222. Case 4413.)

Matter referred to Chief Traffic Officer of the Board for conference with all parties interested. See Judgment of Chief Commissioner under Appendix 'D.'

1772. Complaint of the Ottawa and New York Railway Company of cancellation by Grand Trunk Railway Company of certain joint freight tariffs hereinbefore in force between stations on the lines of the Ottawa and New York and Grand Trunk Railway Companies. (Adjourned hearing.) (File 7096. Case 3718.)

NOTE.—The Board will also in connection with this complaint consider File 10916, application of the Ottawa and New York Railway Company for authority to refund on car sugar, Montreal to Ottawa, by Grand Trunk Railway via Cornwall Junction and Ottawa and New York Railway.

No order made.

1773. Application of the Canadian Asbestos Company, of Montreal, Que., for a mixed carload rate on asbestos goods, cotton waste and oakum. (File 10694.1.)

Order made that in the Canadian classification the rates on asbestos goods, with certain exceptions, be reduced, when no higher, to fifth class in carloads and third class in less than carloads. See order No. 9362, dated January 24, 1910.

1774. Application of the Canadian Freight Association for approval of supplement No. 2 to Canadian classification No. 14. (File 9428.3.)

Application granted, save as to old rules which stands for consideration when the next supplement is considered.

1775. Application of the Hazeldean Rural Telephone Company, Limited, for an order under section 1, subsection E of chapter 61 of the statutes of Canada, 1908, directing the Bell Telephone Company of Canada to provide and furnish a proper connection with the telephone system of the Hazeldean Rural Telephone Company at some point in the township of Nepean in the county of Carleton, in the province of Ontario, at or near the westerly limits of the city of Ottawa, and for an order fixing and determining the charge to be paid by the Hazeldean Rural Telephone Company to the Bell Telephone Company per message for carrying messages of the Hazeldean Rural Telephone Company to subscribers of the Bell Telephone Company in the said city of Ottawa and elsewhere. (File 11491.)

Settled by agreement between the parties.

1776. Application of the Express Traffic Association, representing the Canadian Express Company, the Dominion Express Company, the American Express Company, the Canadian Northern Express Company, the Great Northern Express Company, the Maritime Express Company and the United States Express Company, for approval of local and joint merchandise tariff No. 4 for the interchange of traffic between common points in the United States and common points in New Brunswick, Nova Scotia and Ontario (except Fort William, Fort Francis and Port Arthur), and Quebec. (File 4214.3.)

No order made. No objection to tariff being filed.

1 GEORGE V., A. 1911

1777. Application of the Chatham, Wallaceburg and Lake Erie Railway, under sections 221 to 266 inclusive, for authority to construct a branch line from a point opposite Blind line or fourth concession, township of Dover, east crossing Baldoon street, and the Bear line and Winter line in the said township. (File 11673.)

Application dismissed upon ground that Board has no jurisdiction as the work has been largely done.

1778. Application of the Grand Trunk Railway Company of Canada, under section 29, for an order amending order of the Railway Committee of the Privy Council, dated January 10, 1884:—

(1) By providing that the connection between Jacques Cartier Union Railway (now Grand Trunk Railway), and the Canadian Pacific Railway Company at Jacques Cartier Junction, shall be made with a side track of the Canadian Pacific Railway Company, as shown on plan submitted, instead of with the main line of the Canadian Pacific Railway Company, as provided in the said order;

(2) By providing that the applicant company be relieved of and from all future costs,—

(a) of the maintenance and operation of the two semaphores;

(b) the cost of providing and maintaining a building;

(c) the wages of the staff referred to in the said order; and

(d) from any and all other costs or charges in any wise arising from and incident to the said connection which shall, by reason of the granting of an order in pursuance of this application, be no longer necessary. Adjourned hearing. (File 8687. Case 4074.)

Judgment reserved.

Judgment varying cost of operation and order in accordance.

1779. Application of the Minister of Railways and Canals, under section 28 of the Railway Act, for an order determining the terms and conditions under which the Lachine canal branch tracks and sidings on the north bank of the canal, are to be used by the Canadian Pacific Railway. Adjourned hearing. (File 365.)

Order made that the future user of the Canadian Pacific Railway Company of the Lachine canal bank branch tracks and sidings shall be subject to the terms and conditions set forth in an agreement made between the Canadian Pacific and the Grand Trunk Railway Companies, dated December 1, 1903, varied as follows:—

(a) That the cost of operation be divided equally between the said two companies.

(b) That the cost of maintenance be divided between the said companies on a mileage basis.

The order to take effect as of March 15, 1910. See order No. 9757, dated February 17, 1910.

1780. Application of James Plestor, Jons Gunderson and Knute Larson for an order directing the Vancouver, Victoria and Eastern Railway and Navigation Company forthwith, to pay to James Plester \$3,750, and to Jons Gunderson \$3,566.25, and to Knute Larson \$3,875, and their costs awarded to them respectively by the award of J. H. Senkler, K.C., dated July 30, 1909, pursuant to and under the order of the Board No. 6817, dated April 15, 1909. (File 6000. Case 2560.)

Order made that above amounts be paid with interest forthwith.

1781. Application of the Canadian Northern Ontario Railway Company under section 228 of the Railway Act, for authority to connect its lines and tracks with the lines and tracks of the Manitoulin and North Shore Railway Company in the town of Sudbury, by a transfer track. (File 11128.)

Application refused.

1782. In the matter of the accident on March 13, 1909, at Place St. Henri and Ferdinand street, St. Henri, in the city of Montreal, where the Grand Trunk Rail-

SESSIONAL PAPER No. 20c

way crosses the said streets; and in the matter of the question of the protection to be provided at certain street crossings in St. Henri aforesaid.

This case is set down for the consideration of the question of the apportionment of the cost of the watchmen at the said crossing. Adjourned hearing. (File 9437.36.)

Order made directing protection to be at the expense of the city of Montreal.

1783. Application of the Canadian Northern Ontario Railway Company, under section 237 of the Railway Act, for authority to cross the public road, lot 26, concession 1, township of Gloucester, county of Carleton, mileage 55.39, west of Hawkesbury, Ontario.

Also application of the Bell Telephone Company of Canada that a clause be inserted in the order granting the application imposing on the railway company liability for the costs of any changes which may be made necessary in the existing construction of the Bell Telephone Company by reason of the crossing. (File 8770.1.)

Order made granting application as to the first part. Withdrawn as to the second part.

1784. Application of the Bell Telephone Company of Canada, under the Railway Act, that a clause be inserted in order No. 7606, dated July 24, 1909, which authorized the Canadian Northern Ontario Railway to cross Russell road, in the township of Gloucester, Ontario, imposing on the railway company liability for the costs of any changes which may be made necessary in the existing construction of the Bell Telephone Company by reason of the crossing. (File 8770.2.)

Application withdrawn.

1785. Application of the Bell Telephone Company of Canada, under the Railway Act, that a clause be inserted in order No. 7607, dated July 24, 1909, which authorized the Canadian Northern Ontario Railway Company to cross the Cyrville road, township of Gloucester, imposing upon the railway company liability for the costs of any changes which may be made necessary in the existing construction of the Bell Telephone Company by reason of the crossing. (File 8770.3.)

Application withdrawn.

1786. Application of the Canadian Pacific Railway Company, under sections 284 and 317 of the Railway Act, for an order directing the Grand Trunk Railway Company of Canada to receive passenger and baggage cars of the applicant company and deliver the same to the applicant company at the point of junction of the tracks of the Ottawa, Northern and Western Railway (leased to the applicant company) with the tracks of the Canada Atlantic Railway Company (leased to the Grand Trunk Railway Company), near Sappers bridge, in the city of Ottawa. Adjourned hearing. (File No. 4887. Case 1541.)

Application withdrawn.

1787. Application of the Canadian Pacific Railway for an order fixing the terms and conditions under which they may use passenger stations and passenger tracks and approaches in connection therewith, situated on Ordnance lands or Crown portion of Rideau Canal reserve, extending from Sappers bridge southward to Hurdman's road. (File 3682. Case 415.)

Stands to enable the Canadian Pacific Railway Company to investigate the figures submitted by the Grand Trunk Railway in this connection.

1788. Application of the Canadian Northern Railway, under section 227, for leave to cross the lands and tracks of the Grand Trunk Pacific Railway at or near Riley, Alberta. (File 11395.)

Order made that the Canadian Northern Railway install a complete interlocker by May 1, 1910. The crossing to be protected by flagman until interlocker installed, and at the expense of the applicant.

1 GEORGE V., A. 1911

1789. Application of the Canadian Northern Ontario Railway Company, under section 237, for authority to cross Hurdman's road, in the city of Ottawa, by a transfer track connecting the lines and tracks of the Canadian Northern Ontario Railway with the lines and tracks of the Canadian Pacific Railway Company, at mile 57.8, west from Hawkesbury, Ontario. (File 11864.)

Application refused. See judgment of the Chief Commissioner herein under Appendix 'D.'

1790. Complaint of J. W. Sheppard, town clerk, Cayuga, Ontario, *re* train service of the Grand Trunk Railway Company to and from the town of Cayuga, Ontario. (File 6930.)

For disposition of this complaint, see file 9644 in *re* complaint of the town of Simcoe.

1791. Inquiry into the train service furnished by the Grand Trunk Railway Company of Canada between Canfield Junction and Port Dover. (File 11759.)

The matter disposed of November 14, 1909, by new service being given by the railway company.

1792. Inquiry into the train service furnished by the Grand Trunk Railway Company between Hamilton and St. Thomas, via the Air Line, with particular reference to delays at Caledonia and Jarvis, Ontario. (File 11760.)

No order issued. Matter adjusted by Chief Operating Officer of the Board.

1793. Inquiry into the delays caused to the trains of the Grand Trunk Railway Company operated over the Air Line, by the operation of trains of the Wabash Railroad Company over that line. (File 11761.)

No action taken.

1794. Application of the Canada Southern Railway Company for approval of location of proposed station at Tecumseh road (shown on plan, file 1961.2). (File 11038.)

Judgment reserved.

Approval granted upon certain conditions embodied in order.

1795. Application of the Canada Southern Railway Company (Michigan Central Railroad). This application is set down to dispose of the question of the station site. (File 1961.2.)

Judgment reserved.

Disposed of. See No. 1794.

1796. Application of the city of Chatham, Ontario, under 269 and 275, for an order directing the Grand Trunk Railway to provide gates and electric bells at the crossing of Park and Duke streets, Chatham, Ontario. (File 9437.35.)

Order made requiring Grand Trunk Railway Company to install an electric bell at crossing in question. Maintenance at expense of railway company.

1797. Complaint of Ernest P. Best of Thamesville, Ontario, alleging dangerous condition of level crossings of Grand Trunk Railway and Wabash Railways in village of Thamesville. (File 9437. Case 4796.)

Order made adding the municipal council of Thamesville as a party. A copy of its answer to be served on Mr. Cowan, Grand Trunk Railway Company.

1798. Application of the corporation of the village of West Lorne, county of Elgin, for an order for the approval of certain works for the improvement of the Trigger Drain, and the report, specifications, and plans thereof as prepared by George A. McCubbin, the same to be constructed or reconstructed under and across the railway lands of the Canada Southern Railway Company, in the village of West Lorne. (File No. 10483.)

SESSIONAL PAPER No. 20c

Order made requiring the Grand Trunk Railway Company to install an electric bell at the crossing in question. The expense and maintenance thereof to be borne by the railway company.

1799. Complaint of the municipal council of the township of Esquesing alleging dangerous condition of crossing of the Grand Trunk Railway on the 7th line in that township. (File 9437.84.)

Application dismissed.

1800. Application of the corporation of the village of Glencoe for leave to erect electric light wires across the track of the Grand Trunk Railway Company.

A temporary order has been made in this matter allowing the village to erect its wires, &c. The application is now set down for the purpose of enabling the parties to speak to the terms to be embodied in a permanent order. (File 10071.)

Order made. The Bell Telephone Company consented to replace the telephone wires at the crossing by wires with at least 25 per cent more tensile strength than those at present in use. The corporation of Glencoe to pay the Bell telephone Company the actual cost of the wires supplied and the work of replacement at once upon the account therefor being rendered to the village.

1801. Complaint of A. F. Scott, of Lawrence Station, Ontario, and residents of Middlemiss, Ontario, *re* train service and shipping facilities of Grand Trunk Railway and Wabash Railroad Company in and about Middlemiss, Ontario. (File 2156. Case 3345.)

Board decided not to interfere with arrangements already made.

1802. Complaint of the township of Seneca, alleging dangerous crossing of the Grand Trunk Railway in the village of Caledonia, Ontario. (File 1763.)

Application dismissed, no one appearing for township. .

1803. Application of the Thorold Board of Trade *re* interswitching facilities between the Grand Trunk Railway and the Niagara, St. Catharines and Toronto Railway, Thorold, Ontario. (File 11072.)

Application withdrawn.

1804. Application of Herbert J. Dynes for an order directing the Hamilton Radial Electric Railway Company to construct a suitable farm crossing in the township of Nelson. (File 9653. Case 4684.)

Order to go for specific performance of the covenant of February 23, 1904, that the railway company file plans for the work to be approved by the engineer of the Board. The work to be completed to the satisfaction of the Board's engineer by January 12, 1910.

1805. Complaint of J. W. Freeman, of Burlington, Ontario, that the water course of his property has been blocked by the building, by the Grand Trunk Railway, of a new siding. (File 3525.)

Application dismissed. Work done.

1806. Application of the Grand Trunk Railway Company of Canada, under section 29 of the Railway Act, for an order rescinding or varying order No. 7488, dated July 9, 1909, whereby the Grand Trunk Railway Company was ordered to provide a night watchman at Wellington street crossing, Hamilton, and maintain the same at its own expense, upon the following, among other grounds:—(1) that the traffic along Wellington street and over the tracks of the Grand Trunk Railway Company is exceedingly light between the hours of 9 p.m. and 7 a.m. and not sufficient to necessitate the employment of a night watchman and if it is decided that a night watchman is necessary, (2) that the cost should be apportioned between the Grand Trunk Railway and the city of Hamilton. (File 4552.2.)

Application refused.

1807. Complaint of Houghton Lennox, M.P., that the Grand Trunk Railway have closed up their freight shed at Allandale and that freight formerly received and

1 GEORGE V., A. 1911

delivered there has to be received and delivered at Barrie, Ontario, freight shed (File 11152.)

Complaint dismissed. No one appearing.

1808. Application of the municipal council of the township of Foley, under section 237, for an order directing the Canadian Pacific and Canadian Northern Ontario Railway Companies to construct a suitable highway crossing where both railways intersect the highways to be opened in lieu of the original concession road allowance between concessions 2 and 3, at lot 6, concession 2, township of Foley, district of Parry Sound, Ontario. (File 11370.)

Order made granting leave to cross the lines of the Canadian Northern Ontario Railway and the Canadian Pacific Railway Companies subject to the conditions set forth in the order. See order No. 8419, dated October 13, 1909.

1809. Application of the municipal corporation of the township of Colchester North, under section 251, for an order approving of the plans and specifications relating to the Pinkerton drain in the township of Colchester North, in the county of Essex, with particular reference to the culvert under the lands of the Michigan Central Railroad Company between lots 14 and 15, in the 13th concession of the said township. (File 10682.)

Order made approving of the plan, subject to change at the option of the township of Colchester North. Order made for crossing protection.

1810. Application of the Grand Valley Railway Company, under section 227 of the Railway Act, for authority to cross the tracks of the Grand Trunk Railway Company of Canada, in the city of Brantford, Ontario. (File 7550. Case 3299.)

Order made granting applicant company leave to cross Grand Trunk Railway tracks. Crossing to be protected by half interlocker.

1811. Application of the municipal councils of the county of Victoria, of the township of Emily, and of the village of Omemee, *re* location of station in village of Omemee. (File 1432.)

No action taken, as the matter adjusted by the parties themselves.

1812. Application of the Grand Trunk Railway Company to amend order *re* Galt, Preston & Hespeler crossing of the Grand Trunk Railway at Hespeler. (File No. 10769).

Order made providing for additional protection by the installation of distant semaphores. Work of installation to be done by electric company at its own expense, and to be completed within 6 weeks from the date of order. See order No. 8850, dated December 2, 1909.

1813. Application of the Canadian Pacific Railway to make changes and alterations in the interlocking plant at Richmond street, London, Ontario, of the tracks crossing the London Street Railway. (File No. 8869, Case No. 4192).

Order made that the Canadian Pacific Railway Company provide and install half interlocking plant at said crossing. Work to be completed not later than May 1, 1910. Expense to be divided as follows: \$1,507.73 to be paid by the Canadian Pacific Railway Company, \$392.27 by the London Street Railway Company, or if the cost varies from the said distribution it is to be borne and paid in the above proportions. See order No. 8906, dated December 9, 1909.

1814. Application of the Grand Trunk Railway, under section 29, for an order amending order of the Board No. 4922. (File No. 3803, Case 514).

Order made that order No. 4922, dated June 25, 1908, be amended by striking out clause 3 and providing that all trains of the Grand Trunk Railway be brought to a full stop before reaching the crossing and be flagged across, and that electric cars do not cross the diamond at a higher rate of speed than four miles an hour.

1815. Application of the municipal council of the town of Brampton, Ontario, under section 226, for an order directing the Grand Trunk and Canadian Pacific

SESSIONAL PAPER No. 20c

Railways to provide and construct a suitable interchange switch at the intersection of the said two lines in the town of Brampton, Ontario. (File No. 9669).

Order made providing for a suitable interchange switch in the town of Brampton. The plans to be furnished on or before December 11, 1909. Connection to be completed within 30 days after the location is agreed upon. The companies to agree as to the division of cost.

1816. Complaint of T. W. Crothers, of St. Thomas, Ont., alleging dangerous condition of highway crossing over the Michigan Central Railway and Père Marquette Railway on the town line between the townships of Southwold and Dunwich, county of Elgin, at Iona, Ont. (File No. 9437.77).

Order made for installation of electric bells at the point in question similar to the bell installed at Bronson avenue, Ottawa. Expense to be borne by the railway company.

1817. Application of the corporation of Tilbury East, under section 251 of the Railway Act, for approval of certain drainage work to be constructed by the applicant in the township of Tilbury East, known as the 'King and Whittle Improvement Drain.'

Application of the Canadian Pacific Railway Company to amend order of the Board No. 6677, dated March 26, 1909, herein. (File No. 8653, Case No. 4053).

Order made amending order March 26, 1909.

Application of the Canadian Pacific Railway Company to amend order of the Board No. 6677, dated March 26, 1909, herein. (File No. 8653. Case No. 4053.)

Order made amending order March 26, 1909.

1818. Application of the Canadian Pacific Railway Company to determine what portion of the works shown on plan approved by order dated June 3, known as Part I of the Toronto Grade Separation from Canadian Pacific Railway diamond crossing to new Toronto station, on the Grand Trunk Railway, and the estimated value thereof comes under the following heads, namely:—

1. Grade separation, that is, separating the grade of the railway as it now exists from the grade of the intersecting highways.

2. Grade reduction, that is, improving the existing grade of the railways as distinguished from the separation of grade required at highway crossings. (Item I.)

3. Increased trackage facilities, that is, the construction of two additional tracks with altered and additional sidings for handling traffic over the said railway.

And for an order fixing the amount to be paid by the applicant in respect of Item I 'Grade Separation,' above mentioned, prior to the undertaking of any work of construction by the Grand Trunk Railway Company, and that no amount be paid by the applicant in respect of Items 2 and 3 'Grade Reduction,' and 'Increased Trackage Facilities,' above mentioned, or be otherwise chargeable against the applicant. (File No. 588.6.)

Order to be settled between the parties. Failing this the Board will settle the order.

Order afterwards settled by the Board.

1819. Application of the city of Toronto for an order compelling the Grand Trunk Railway Company, to provide better protection at level crossing known as the Sunnyside crossing, &c.

This application is set down to dispose of the question of contribution, if any to the cost by the townships of Etobicoke and York, with respect to the crossings in those municipalities; also the question of contribution, if any, to the cost by the city, with reference to the crossings at Dunn avenue, Dowling avenue, Jamieson avenue, Queen street, Indian road, and the two crossings at High Park; also the question of the portion or share, if any, that the Canadian Pacific Railway Company

1 GEORGE V., A. 1911

should contribute towards the cost of the whole work, or any part of it. (File No. 4606. Case 1311.)

Order made approving of plan of Grand Trunk Railway Company, known as Part I of the Toronto Grade Separation. The question of the contribution of the townships of Etobicoke and York reserved. Order No. 7361, dated June 3, 1909, rescinded. See order No. 8487, dated October 15, 1909.

1820. Complaint of H. L. Drayton, K.C., of Toronto, Ontario, in respect of the level crossings of the Grand Trunk Railway at Windermere and Ellis avenues, in the township of York.

Municipalities will be asked to show cause why they should not make the payments demanded by the Grand Trunk Railway. (Adjourned hearing.) (File 6994. Case 3026.)

Order made that the two-twelfths ordered to be paid by the county of York is to be paid by the other interested parties. The payment of arrears to be made at once. The proportions in future to be as follows: City of Toronto eleven thirty-sixths; township of York eight thirty-sixths; the railway company seventeen thirty-sixths.

1821. Complaint of the police village of Mimico against dangerous condition of Grand Trunk Railway crossing on Church street in the village of Mimico. (File 9437.82.)

Order made for installation by Grand Trunk Railway of single arm gate on each side of crossing within 60 days from October 15, 1909, and be in accordance with agreement of June 7, 1905, between the company and the township of Etobicoke.

1822. Application of the Grand Trunk Railway Company for order amending order of the Railway Committee of the Privy Council, dated September 3, 1893, by directing the Toronto Suburban Railway Company to install and maintain derails in its tracks on each side of the crossing of the Northern Division of the Grand Trunk Railway, Davenport Road, Toronto, the derails to be interlocked with semaphores to be installed by the Grand Trunk Railway at the crossing. (File 132.1.)

Order made approving of revised location; applicant company to file plans, under section 227 of the Railway Act, showing the crossings over the Grand Trunk Railway and Canadian Pacific Railway at St. Clair avenue and Davenport street.

1823. Application of the Toronto, Niagara and Western Railway Company under Section 167 for approval of revised location from Davenport station to Jane street, Toronto, Ont., mileage 2.49 to 4.74. (Adjourned hearing.) (File 4488.4.)

Order made approving of the revised location. The applicant company to file, under section 227 of the Railway Act, plan showing crossing over Grand Trunk Railway and Canadian Pacific Railway at St. Clair avenue and Davenport station, in the city of Toronto and mode of crossing and protection thereat to be reserved for further consideration.

1824. *Re* accident at Weston road, West Toronto, level crossing on August 8, 1909.

(NOTE). This matter is set down so that the parties may speak to the question of the removal of the tower at the crossing from its present position to a point midway between the Canadian Pacific and Grand Trunk Railways. (Adjourned hearing.) (File 8673.)

Order made refusing the application of the Canadian Pacific Railway Company; order No. 6968 amended by providing for the installation of a bell or other signaling device; also providing that all trains of the railway companies stop just west of Weston road pending the installation of the bell. See order No. 8397, dated October 15, 1909.

1825. In the matter of the crossing by the tracks of the Grand Trunk Railway Company of Canada of the tracks of the Owen Sound section of the Canadian Paci-

SESSIONAL PAPER No. 20c

fic Railway Company and the tracks of the Ontario and Quebec Railway Company, at a point on the Weston road, in the town of Toronto Junction, authorized by order of the board No. 5102, dated July 29, 1908, and the interlocking plant required to be installed at the said crossing.

(Terms of the order are to be spoken to.) (File 6071. Case 4002.)

No order made.

1826. Vineland Station. (File 8644. Case 4719.)

Order made extending time for leave to appeal to Supreme Court in accordance with oral judgment of Chief Commissioner.

1827. Application of the Canadian Pacific Railway as lessee of the Walkerton and Lucknow Railway, for order approving of plan and profile of proposed highway crossings at mileages 0.75, 1.04, 1.86, 1.90, 4.33, 3.18, and 4.43 in the township of Artemesia in the county of Grey, Ont. (File 3712. Case 443.)

Order made that the Canadian Pacific Railway Company make certain repairs, changes, &c., as outlined in the order. See order No. 8992, dated November 17, 1909.

1828. Application of the village of Streetsville, Ont., for an order requiring the Canadian Pacific Railway Company, to unite its two stations at the village of Streetsville at one central point. (File 11531.)

Application stands adjourned sine die.

1829. Complaint of the town of Simcoe, Ont., alleging inadequate facilities provided by the Grand Trunk Railway in and out of town of Simcoe, Ont. (File 9644.)

Referred to Board's Chief Operating Officer to effect a settlement. Subsequently satisfactory arrangements were made.

1830. Application of the Norfolk County Telephone Company for an order directing the Bell Telephone Company to provide connection and communication with its lines at Waterford, Scotland, Delhi, Simcoe, Otterville and Port Dover, Ontario. (File 9599.)

Matter stands pending settlement between the parties.

Consent order subsequently signed.

1831. Application of the Grand Trunk Railway Company to fix the rate to be charged for switching and handling traffic to and from the Christie-Henderson spur. (File 9171. Case 4391.)

Order made that notwithstanding the said order No. 6734, dated March 26, 1909, the railway company is not, and shall not be, entitled to make any extra charge for the switching performed by it at the said spur. See order 8631, dated November 10, 1909.

1832. Complaint of the Mooney Car Line, Stratford, Ontario, that railway companies refuse to pay mileage for the use of its private cars. (File 8033.)

Stands to enable the railway company to furnish complainant with the information asked for at the hearing.

1833. Application of the King's Milling Company of Sarnia, Ontario, for an order reducing the charges for switching carloads of grain from elevator at Point Edward to the mills at Sarnia. (File 10531.)

Order made that rate charged by the Grand Trunk Railway Company for moving grain in carloads from the company's elevator at Point Edward to the King Milling Company's mill at Sarnia be reduced to one and one-half cents per 100 lbs. on the actual weight loaded, subject to a minimum weight of 40,000 lbs. for each carload. See order No. 8613, dated October 16, 1909.

1834. Application of the Canadian Northern Quebec Railway, under section 249, for an order directing said company to construct a raceway and other openings under the tracks of railway at Jacques Cartier river, on the property of John Forman, lots 79 and 80, parish of Les Ecureuils. Adjourned hearing. (File 11665.)

Order made by consent.

1 GEORGE V., A. 1911

1835. Application of the New Brunswick Southern Railway Company, under the Railway Act, for approval of standard mileage tariff applying between its stations. Adjourned hearing. (File 1110.1.)

Order made approving tariff.

1836. Application of the Bell Telephone Company, under the Railway Act, for approval of proposed contract for the installation of new telephone system in the Russell House, Ottawa, Ontario. (File 12003.)

Order made approving of the charge of ten cents for each connection with the system of the applicant company in the Russell House with the Ottawa subscribers.

1837. Application of the Monk Rural Telephone Company, Limited, for an order fixing the maximum rate which the North American Telegraph Company may charge for messages coming from the latter company's line from the village of Carp to the city of Ottawa, and for order directing the North American Telegraph Company to provide proper connection. (File 11490.)

Order made that maximum toll to be charged by the North American Telegraph Company be reduced to 20 cents subject to the overtime charges as for the 20-cent toll.

1838. Application of the Canadian Northern Ontario Railway Company, under section 227, for authority to place its tracks across, and to connect with the tracks of the Grand Trunk Railway Company of Canada, Whitby branch, near Brooklin, Ontario, lot 23, concession 4, township of Whitby, Ontario. (File 11809.)

Order made authorizing the crossing and connection at the expense of the applicant company, and providing for an interlocking plant. See order No. 8755, dated November 25, 1909, also order No. 9145, dated January 5, 1910, amending said order.

1839. Application of the Grand Trunk Railway Company of Canada, under sections 232 and 237, for authority to construct a branch or connecting line of railway from a point on the main line of the railway company, east of the viaduct in the town of Port Hope, Ontario, northerly and westerly to a point on the northern division of the company's railway north of Ontario street, Port Hope, Ontario. (File 3675. Case 411.)

Stands until the first sittings of the Board in May, 1910. Subsequently disposed of.

1840. Application of the Canadian Pacific Railway Company, under sections 222 and 237, for authority to construct a branch line in the town of Lachine from a point on the Lachine canal, south bank branch, thence southwesterly direction along the lands of the Lachine canal.

Also another branch from point on south bank branch, thence in a southwesterly direction along the lands of the Lachine canal, between public road and south bank branch. Adjourned hearing. (File 11645.)

Struck off list to be reinstated upon applicant giving fifteen days' notice to all parties.

1841. Application of the Canadian Northern Quebec Railway Company, under section 178, for authority to take parts of lot 213, parish of St. Charles Borromee, Quebec, and parts of lot 2, town of Joliette, for the purpose of securing efficient operation of railway and remodelling the station yard at Joliette, Quebec. (File 12154.)

Order made granting application.

1842. Application of the town of Hawkesbury, Ontario, for protection where the tracks of the Grand Trunk Railway Company cross Main street in the town of Hawkesbury, Ontario. Adjourned hearing. (File 9437.44.)

Order made authorizing the applicant company to cross the Canadian Pacific Railway Company's tracks. Full interlocking plant to be installed at the expense of the applicant company. Interlocking plant to be completed within six months from the date of the order. Order 8890, dated December 13, 1909.

SESSIONAL PAPER No. 20c

1843. Application of the corporation of the city of Toronto, under section 29, altering or varying an order of the Board dated July 3, 1909, whereby the applicants authorized to construct a high level bridge over the Don Improvement and the tracks of the Canadian Pacific Railway Company, the Grand Trunk Railway Company, and the Canadian Northern Ontario Railway Company, at Queen street in the city of Toronto, Ontario. (Adjourned hearing.) (File No. 1621.)

Application of the Canadian Pacific Railway Company for an order extending the provisions of order No. 7813 so as to provide that upon completion of the said bridge the street now existing be closed for pedestrian and vehicular traffic and access to and from the tracks of the railway company be prevented. (Adjourned hearing.) (File 1621.)

Application dismissed.

1844. Application of the Grand Trunk Railway Company of Canada, for a decision on the question of interlocking plants and responsibility of the senior company for accidents arising out of the negligence of the men in charge. (Adjourned hearing). (File 7815.)

Struck off list.

1845. Application Fort William Terminal Railway and Bridge Company, under Section 167, for approval of revised location from a point near Christina street in the town of Fort William, thence from the Kaministiquia river and across islands numbers 2 and 1. (File 4805.2.)

No further action to be taken.

1846. Application of the Canadian Pacific Railway Company, under Sections 227, 228 and 237 for authority to connect tracks of the Fort William Terminal Railway and Bridge Company, and to cross the Electric Street Railway on Syndicate avenue, and also to cross the said Syndicate avenue, Fort William, Ont. (File 11532.)

Order made authorizing crossing Electric Street Railway and Syndicate avenue and to connect with tracks of Fort William Terminal Railway and Bridge Company.

1847. Application of the township of Paipoonge, Ontario, for an order to compel the Canadian Northern Ontario Railway Company, to remove its rails from, and to cease operations of its work, or other trains, across highway which crosses Lot 8, Con. 1, north of Kaministiquia river and to restore the said highway to the condition it was in before the company interfered with it. (File 11669.)

Stands adjourned sine die. Agreement to be filed by parties on which order is to issue.

1848. Application of the township of Ignace, Ont., for authority to establish a highway across the tracks of the Canadian Pacific Railway Company in the village of Ignace at the intersection of East street in the said village. (File 11668.)

Order made that Canadian Pacific Railway Company maintain crossing in accordance with Board's regulations affecting highway crossings, January 26, 1909.

1849. Application of the Canadian Pacific Railway Company under Section 237, for authority to construct a branch line along Hardisty street, in the town of Fort William, Ontario. (File 8158. Case 3711.)

Order made authorizing line along and across Hardisty street.

1850. Petition of the residents of the Thunderhill branch of the Canadian Northern Railway Company for an order requiring the railway company to put the new siding in the vicinity of Fort Pelly, Sask., into condition for operation. (File 9801.)

Order issued authorizing company to open line for traffic, fencing to be completed by November 15, 1909.

1851. Application of the city of Winnipeg, Man., to compel the Canadian Northern Railway, to construct a subway in accordance with the agreement made on the 20th day of October, 1906, between the city of Winnipeg, Manitoba, and the Canadian Northern Railway, at Pembina street, Winnipeg, Manitoba. (File 1124.2.)

1 GEORGE V., A. 1911

Order made that Canadian Northern Railway Company construct subway at Peninsula street in accordance with agreement October 20, 1906, between city and Canadian Northern Railway and plans approved by Board's order 7963 and 8066, by November 1, 1909.

1852. Application of the residents, merchants and shippers of the village of Barwick, Ontario, for an order directing the Canadian Northern Railway to place an agent or operator at that point as well as to change the unfavourable condition of the yards. (File 6695.)

Order made that railway company drain, clean out, existing ditches and other work as set forth in order. See order No. 9174 dated January 6, 1910.

1853. Application of the Rainy River District Merchants and Shippers Association for an order directing the Canadian Northern Railway Company to provide better accommodation on its line of railway between the towns of Rainy River and Fort Francis, Ontario. (File 10243.)

Order made that railway company in spring, as soon as frost is out of ground, clean out drain, &c., at Emo station and construct ditch. Also drain along north side of passing track at Sleemans station. (See order No. 9173, dated January 6, 1910.)

1854. Complaint of F. C. Berry of Austin, Manitoba, respecting the right of way of the Grand Trunk Pacific through his farm in section 2, of township 12, range 11, west of the 1st meridian, Man. (File 11865.)

Order made directing railway company to place two more wires along fence in each side of its right of way. Order No. 8362 rescinded. See order No. 8924 dated December 15, 1909.

1855. Complaint of the rural municipality of Stuartburn, Manitoba, against the condition of the ditches along the right of way of the Canadian Northern Railway Company opposite section 23-2-8 east, and 23-2-7 west. (File 10569.)

Order made directing railway company to grade and put in good order all road allowances in municipality and do certain other work set out in order. Work to be completed by June 1, 1910. See order No. 9293, dated January 17, 1910.

1856. Application of the merchants, farmers and residents of the district of Purves, Manitoba, for an order directing the Canadian Pacific Railway Company, to erect a station and appoint an agent at Purves. (File 11104.)

Application dismissed.

1857. Complaint of the London Fence Company, Limited, of Portage la Prairie, that the Canadian Northern Railway is blockading Broadway street with their trains. (File 6255.)

Struck off the list, no one appearing for complainant, and not sufficient information filed by applicants.

1858. Complaint of the Brotherhood of Railroad Trainmen alleging dangerous position of switches, switch stands, bridge supports, and structures generally by being placed so near to the tracks on which the employees of the Canadian Pacific Railway have to work at Kenora and Keewatin yards, Ontario. (File 8891. Case 4208.)

Stands pending filing of agreement by Canadian Pacific Railway Company referred to at hearing.

1859. Application of the Canadian Pacific Railway Company and the Canadian Northern Railway Company for ruling of the Board in reference to receivers of goods withholding payment of freight charges on account of shortage or damage to portion of the shipment. (File 9843. Case 4800.)

Application withdrawn.

1860. Complaint of Messrs. Laing Brothers, of Winnipeg, Manitoba, that the Canadian Northern Railway Company exacted a charge of two cents per hundred-

SESSIONAL PAPER No. 20c

weight on a car of oats from the Ogilvie Elevator to Canadian Northern Railway yards, City Point. (File 6713.2.)

Application dismissed.

1861. Application of the Western Associated Press, Winnipeg, for an order under Section 323, and other sections of the Railway Act, directing the Canadian Pacific Railway Company's Telegraph and the Great Northwestern Telegraph Company of Canada to charge press rates for press matter, whether delivered to a newspaper to the Western Associated Press and further directing the Canadian Pacific Railway Company's Telegraph to carry telegraphic news services by other news gathering agencies at the same rate charged by the said telegraph company. (File 12002.)

Order made refusing the application for an order directing the respondent companies to furnish the applicant telegraphic matter at tolls or rates established by them for delivery to and publication in one newspaper. Also that the flat rate contracts to newspapers disclosed in the evidence are in violation of the tariff clauses of the Railway Act as applicable to telegraphic companies and are prohibited as discriminatory. The tariffs of tolls covering all this class of telegraphic service to be filed with the Board not later than February 1, 1910. See order 9226, dated January 8, 1910. Also order 9712, dated February 26, 1910, directing that said order 9226 is only intended to apply to telegraphic matter delivered by the respondent companies at points west of and including Port Arthur, Ont., and that the tariffs of tolls required by the said order to be filed with the Board are the tariffs for the said telegraphic matter.

1862. Application of the city of St. Boniface, Man., under section 237, for leave to extend Provencher avenue, within the said city of St. Boniface, across the tracks of the Canadian Pacific Railway running south from the city of Winnipeg to the International boundary at a point immediately north of existing depot at St. Boniface. (File 12023.)

Application dismissed.

1863. Application of the city of St. Boniface, complaining under Section 26 of the Railway Act, that the Canadian Northern Railway has failed to comply with the order of the Board, dated October 16, 1905, regarding the diversion of Thibault street, city of St. Boniface, Man. (File 1413.)

Order made that Canadian Northern Railway comply with provisions of paragraph 1 of order October 16, 1905, by December 1, 1909.

1864. Complaint of the municipality of McCreary, Man., alleging that the Canadian Northern Railway Company, have not provided proper crossing and fencing along the railway in the vicinity of the municipality of McCreary, Man. (File 9437.70.)

Order made for crossings to be put in by December 1, 1909, by railway company at the points set forth in the order.

1865. Complaint of R. A. Knight of Hargrave, Man., alleging discrimination in the freight rates of the Canadian Pacific Railway Company on lumber from British Columbia and coal from Lethbridge to Canadian Northern points as compared with rates to corresponding Canadian Pacific Railway points. (File 10913.)

Application dismissed.

1866. Complaint of the municipality of Strathclair, Man., alleging dangerous condition of the Canadian Northern Railway Company's crossing along the south limit of sections 10 and 11 and 12, township 18, range 22, west. (File 9437.66.)

Order made that Canadian Northern Railway Company convey prior to December 1, 1909, a strip of land for highway in lieu of highway taken by railway company and construct certain other crossings between lots 10 and 11 and 1 and 2.

1 GEORGE V., A. 1911

1867. Complaint of the municipality of Cameron, Man., that the Canadian Northern Railway Company's line encroaches on the road allowance on the Northern Pacific and Manitoba Railway in the municipality of Cameron, Man. (File 10664.)

Stands for further information to be filed by Railway Company with Board.

1868. Complaint of J. H. Shier, of Hamiota, Man., of refusal of the Canadian Pacific Railway Company to put into proper condition the crossing one mile east of the village of Hamiota, Man. (File 11634.)

Complaint withdrawn.

1869. Complaint of B. Maxfield, of Souris, Man., alleging dangerous condition of highway crossing over the Canadian Pacific Railway at First street, Souris, Man. (File 9437.65.)

Complaint dismissed.

1871. Application of the rural municipality of Langford, Manitoba, under the Railway Act, for an order directing the Canadian Northern Railway to provide crossings between sections 24 and 25, township 13, range 15. (File 11117.)

Order made for highway crossing between sections 24 and 25 to be constructed by December 1, 1909, and if municipality consents railway company may divert said highway and construct crossing in lieu thereof as may be agreed between the parties.

1872. Application of the municipality of Miniota for an order that Canadian Pacific Railway Company construct a transfer track with the tracks of the Grand Trunk Pacific Railway Company at Quadra siding, Manitoba. (File 10899.)

Application dismissed.

1873. Application of the municipality of Langford, Manitoba, under section 237, for an order directing the Canadian Northern Railway to provide a suitable crossing between Sections 28 and 29, Township 13, Range 15. (File 12000.)

Order made for crossing to be constructed by Canadian Northern Railway Company prior to December 1, 1909, between sections 28 and 29.

1874. Application of the Midale Commercial Club of Midale, Sask., for an order requiring the Canadian Pacific Railway Company to construct a passenger and freight station and also open a highway crossing over the tracks of the Canadian Pacific Railway Company at Main street, Midale, Sask. (File 11105.)

Order made opening highway from Railway avenue across Canadian Pacific Railway immediately west of most westerly switch.

1875. Application of the village of Brownlee, Sask., for an order requiring the Canadian Pacific Railway Company to provide a crossing over its railway opposite Bagot street east of Canadian Pacific Railway station at Brownlee, Sask. (File 10972.)

Order made to construct highway across Canadian Pacific Railway tracks immediately east of most easterly switch.

1876. Complaint of the Eureka Coal and Brick Company, of Estevan, Sask., alleging discrimination in freight rates on coal from Estevan and also alleging discrimination in switching charges on coal at Estevan in favour of shippers at Roche Porcee and Bienfait. (File 7037.)

Judgment reserved.

1877. Complaint of the Board of Trade of Creelman, Sask., that the platform of the Canadian Pacific Railway Company's station at Creelman, Sask., is not of sufficient length to accommodate the passengers. (File 11736.)

Order made that Canadian Pacific Railway spread cinders as an extension to platform at station and extend platform to a length of 240 feet by May 1, 1910.

1878. Application of the city of Regina, under section 227 of the Railway Act for leave to construct, maintain and operate an electric street railway across the line of the Canadian Pacific Railway and the Canadian Northern Railway, in the city of Regina, as set forth in application dated September 28, 1909.

SESSIONAL PAPER No. 20c

No order made. Parties will come together within a reasonable time. If not, then the Board will deal with the matter at a later date.

1879. Application of the city of Regina, Sask., under section 227, for leave to construct an electric street railway over and across the line of the Canadian Pacific Railway, at a point between sections 22 and 23, in township 17, range 20, west of the 2nd meridian, and at thirteen other points on the Canadian Pacific Railway, also across the line of the Canadian Northern Railway between townships 17 and 18, west of the second meridian, and at six other points. (File 12024.)

Matter stands to enable parties to make a settlement; if no settlement made, then Board will issue an order.

1880. Petition of the residents of Keeler, Sask., for an order requiring the Canadian Pacific Railway Company to erect a suitable depot and freight shed and the appointment of a permanent station agent at that point. (File 12102.)

Application dismissed.

1881. Application of the Canadian Pacific Railway, under sections 222 and 237, for authority to construct a branch line and spurs therefrom opposite Aberdeen street to the Parliament buildings in the city of Regina, Sask. (File 11449.)

Order made for spur limited to three years operation from October 14, 1909.

1882. Petition of the residents of the district near Saskatoon, Sask., for an order directing the Canadian Northern Railway, within a specific time, to submit to the northeast quarter of section 26, township 35, range 7, Saskatchewan. (File 10029.)

Application dismissed.

1883. Complaint of the Board of Trade of Battleford, Sask., that the Canadian Northern Railway Company has not made proper provisions for the loading and shipping of traffic at that point. (File 10736.)

Application dismissed.

1884. Application of the Board of Trade and citizens of Howell, Sask., for an order directing the Canadian Northern Railway to provide proper station facilities at that point. (File 9449.)

Order made directing railway company to repair station and provide seating accommodation for at least twelve persons.

1885. Application of the Canadian Northern Railway Company, under section 237, for authority to construct its line across avenues 'A' to 'P' and Spadina Crescent, in the city of Saskatoon, Sask.

NOTE.—The Board will consider the complaint of the Transportation Committee of the Board of Trade of Saskatoon, dated September 14, 1909, that the Board's order of September 23 and 24, 1908, No. 5452, clause 7, has not been carried out. (File 6256. Case 2650.)

Struck off the list. No application by the Transportation Committee.

1886. Application of the city of Saskatoon, Sask., for an order, under subsection 5 of section 237, sanctioning and approving the plans, profiles and books of reference submitted showing the subway proposed to be constructed by the city under the tracks of the Canadian Northern Railway Company at Twenty-second street, Saskatoon, Sask. (File 6256. Case 4792.)

Struck off list. No application by Transportation Committee of Saskatoon Board of Trade.

1887. Application of the city of Saskatoon, Sask., for order under section 238, directing the Canadian Northern Railway within a specific time to submit to the Board a plan and profile of its railway where it crosses Eleventh street in the city of Saskatoon, Sask. (File 12061.)

Application dismissed.

1888. Complaint of village of Bladworth, Sask., that Canadian Northern Railway Company did not supply suitable facilities for approaching the station of the com-

1 GEORGE V., A. 1911

pany at Bladworth, and also for an order permitting Third street in the village of Bladworth to be carried across the tracks of the said company.

Order made that company prior to December 1, 1909, remove its fences on west side of its station yard so as to permit access to elevators on company's property and construct a road from intersection at Third street southerly through the station grounds. Also fill a slough on company's property on easterly side of company's tracks.

1889. Petition of the residents of Puckahn, Sask., for an order requiring the Canadian Northern Railway Company to provide a loading platform and flag station at the north side of the river at Fenton, Sask. (File 9718.)

Order made that company establish a flag station and suitable loading platform at Fenton, Sask., prior to September 1, 1910.

1890. Complaint of Charles McDonald, of Prince Albert, Sask., alleging damage by the Canadian Northern Railway Company to his property at Prince Albert, Sask., on account of the location of the railway. (File 10912.)

If railway company's plans have not been approved, a clause for compensation prior to approval of plans will be inserted.

1891. Complaint of the Board of Trade of Prince Albert, Sask., alleging defective and unsafe condition of roadbed of Canadian Northern Railway running into Prince Albert through Melfort county. (File 8101.)

Dismissed.

1892. Complaint of the Prince Albert Board of Trade alleging unsatisfactory train connection on the Canadian Pacific and Canadian Northern Railway Companies' lines at Regina, Sask. (File 10810.)

Order made that question of interchange of passenger traffic be reserved for future order of Board, and other matters in complaint dismissed.

1893. Complaint of the chairman of local improvement district 27, section 4, Alberta, against the plan of the proposed subway of the Grand Trunk Pacific Railway Company at highway crossing on the northeast quarter section 15, township 53, range 24, east of the first meridian. (File 9023.)

Order made for subway prior to July 1, 1910, or railway company instead of constructing subway, may divert trail by construction of a highway joining Fort Saskatchewan trail with Norton street on southern side of railway company's right-of-way on conditions set forth in order.

1894. Application of F. G. Limback, owner of lots 6 and 7, block 36, Inglewood, subdivision, Edmonton, for an order that the Grand Trunk Pacific Railway Company be directed within such time as the Board may order to treat with applicant in respect of the damages sustained by him in respect of the property above described by the construction of the company's railway on the street adjoining the said land in the east, and that in default of the said company treating as aforesaid, the plan of the said railway so far as it affects the said street be cancelled. (File 11613.)

Stands pending decision of Supreme Court of Canada on appeal of Grand Trunk Pacific from order of the Board making it a condition that property owners on Hardisty street, Fort William, be compensated for damages, if any, accruing by reason of location of company's line on said street.

1895. Application of the residents of Round Hill district, Alberta, for an order requiring the Canadian Northern Railway Company to locate the station at Round Hill, Alberta. (File 10724.)

Application dismissed.

1896. Complaint of the Department of Agriculture of the province of Alberta alleging that shippers of live stock from points on the Canadian Pacific Railway to Edmonton, Alberta, are supplied with box cars by the Canadian Northern Railway Company instead of stock cars, thus entailing double switching charges. (File 11247.)

Complaint withdrawn.

SESSIONAL PAPER No. 20c

1897. Application of Helen Loades, Viking, Alberta, under section 253, for an order to compel the Grand Trunk Pacific Railway to construct a suitable farm crossing at the northeast 34, 47, 13, west of the fourth meridian, Viking, Alberta. (File 9609. Case 4664.)

Struck off list, company having purchased the land.

1898. Application of S. F. Mayer and Isaac Picard for an order directing the Grand Trunk Pacific Railway Company to treat with the applicants, in respect to damages to property by the construction of its railway on Twenty-first street, abutting lots 18 and 19, block 2, and lots 13 and 17, block 4, Edmonton, Alberta. (File 9876. Case 4826.)

Stands pending decision of Supreme Court of Canada on appeal of Grand Trunk Pacific from order of the Board making it a condition that property owners on Hardisty street, Fort William, be compensated for damages, if any, accruing by reason of location of company's line on said street.

1899. Application of W. J. Johnson for an order directing the Grand Trunk Pacific Railway Company to treat with the applicant in respect to damages to property by construction of its railway on Twenty-first street, abutting block 12, river lot 2, Inglewood, Edmonton, Alberta. (File 9877. Case 4825.)

Stands pending decision of Supreme Court of Canada on appeal of Grand Trunk Pacific from order of the Board making it a condition that property owners on Hardisty street, Fort William, be compensated for damages, if any, accruing by reason of location of company's line on said street.

1900. Application of J. C. Dumont for an order directing the Grand Trunk Pacific Railway Company to treat with the applicant in respect to damages to property by the construction of its railway on Twenty-first street, abutting lots 17, 18, 19, block 3, Edmonton, Alberta. (File 9874. Case 4814.)

Stands pending decision of Supreme Court of Canada on appeal of Grand Trunk Pacific from order of the Board making it a condition that property owners on Hardisty street, Fort William, be compensated for damages, if any, accruing by reason of location of company's line on said street.

1901. Application of J. G. Campbell for an order directing the Grand Trunk Pacific Railway Company to treat with the applicant with respect to damages to property by construction of its railway on Twenty-first street, abutting lots 14, 15, 17 and 18, block 2, Edmonton, Alberta. (File 9875. Case 4815.)

Stands pending decision of Supreme Court of Canada on appeal of the Grand Trunk Pacific from order of the Board in *re* company's location on Hardisty street, Fort William, Ontario.

1902. Complaint of the Clover Bar Coal Company, Limited, of Edmonton, Alberta, alleging discrimination by the Canadian Northern Railway Company under tariff 569, effective May 25, 1909, in comparison with tariff 486, effective December 11, 1908, and tariff 327 and supplement thereto, effective January 14, 1908. (File 11493.)

Complaint dismissed.

1903. Application of the residents of the village of Bruderheim, Alberta, for an order to compel the Canadian Northern Railway Company to appoint a regular station agent at that point. (File 11696.)

Stands until January 1, 1910. Mr. Shaw to file statement of traffic when order will issue. Application subsequently refused.

1904. Complaint of the United Farmers of Alberta, Clover Bar, Alberta, that the Grand Trunk Pacific Railway have not erected fences, cattle-guards and built crossings in the district of Clover Bar, Alberta. (File 11618.)

Order made that railway company erect fences on each side of its right-of-way prior to November 1, 1909, through district of Clover Bar, and install cattle-guards and construct crossings at all highways in said district.

1 GEORGE V., A. 1911

1905. Complaint of the Clover Bar branch of the United Farmers' Association that the Grand Trunk Pacific Railway are doing nothing in the way of fencing their line and putting in crossings in that district. (File 11000.)

Order made that railway company erect fences on each side of its right-of-way through district of East Clover Bar prior to November 1, 1909, and install cattle-guards and construct crossings at all highways in said district.

1906. Complaint of J. G. McKay, of Loughheed, Alberta, that the station accommodation on the Canadian Pacific Railway at Loughheed, Alberta, is not sufficient.

Board directed that an order go after inspection has been made by its officer in regard to the station facilities and accommodation. Subsequently arrangements were made for improved facilities which were satisfactory to the complainant.

1907. Application of the city of Edmonton, Alberta, under section 29, for an order amending order of the Board No. 6751, with regard to Syndicate avenue crossing, Edmonton, Grand Trunk Pacific and Canadian Northern Railways. (File 9419 Case 4525.)

Order made dismissing application with leave to city of Edmonton to apply for protection at crossing.

1908. Application of the city of Edmonton, Alberta, under Section 29, for an order varying the order of the Board No. 5598 re Hamayo avenue and First street crossings Grand Trunk Pacific Railway and Canadian Northern Railway. (File 8636. Case 4041.)

Order made dismissing application with leave to city of Edmonton to apply for establishment of gates or other protection at said crossing.

1909. Application of the Canadian Pacific Railway Company, under section 258, for approval of the location and detail plans of the station at Grassy Lake, Alberta. (File 10505.)

Application dismissed. Canadian Pacific Railway to submit plan of station to be located between Lewellyn avenue and Salvage avenue, Grassy Lake.

1910. Application of the residents of Bowell, Alta., for an order directing that the Canadian Pacific Railway Company establish a revenue station and place an agent at that point. (File 11004.)

Application dismissed.

1911. Application of the city of Calgary, Alberta, under section 237, for authority to cross the spur of the Canadian Pacific Railway Company on Second street, east, with the tracks of the Calgary Street Railway. (File 9306. Case 4463.)

(NOTE). The Board will consider in connection with this application, the question of protection at this crossing as referred to in the last paragraph of order No. 6399, dated February 17, 1909.

Order made that Canadian Pacific Railway install semaphores authorized by order No. 6399, also that city of Calgary install two semaphores, &c.

1912. Complaint of the Alberta Provincial Exhibition Association alleging failure of the Canadian Northern and Canadian Pacific Railway Companies to provide reasonable and proper facilities for the interchange of through passenger traffic at through rates from and to their respective railways in the provinces of Alberta, Saskatchewan and Manitoba, and in the province of Ontario, west of Fort William, Ont. (File 10767.)

If railway companies do not come to an understanding by January 1, 1910, Board will deal with the matter.

1913. Application of the city of Calgary, under section 246 of the Railway Act, for authority to cross the tracks of the Canadian Pacific Railway Company with trolley wires of the Calgary Street Railway at Second street east in the city of Calgary, Alta. (File 11744.)

Order made granting the application.

SESSIONAL PAPER No. 20c

1914. Application of the city of Calgary, Alberta, under Section 237, for authority to construct a subway under the tracks of the Calgary and Edmonton Branch of the Canadian Pacific Railway Company where the same crosses the road allowances between sections 11 and 12, township 24, range 1, west of the 5th meridian on the line of 15 Street east, in the city of Calgary, Alberta. (File 11824.)

Stands until next sittings of the Board in Calgary.

1915. Application of the city of Calgary, under Section 237, for authority to construct a subway under the tracks of the Canadian Pacific Railway Company at First street, east, Calgary, Alberta. (File 11964.)

Order made that subway be constructed pursuant to terms of agreement between the parties dated September 14, 1906. Plans to be submitted to engineer of Board.

1916. Application of the city of Calgary, Alberta, under Section 237 of the Railway Act, for authority to construct a subway under the tracks of the Canadian Pacific Railway Company's main line where the same crosses the road allowances between sections 11 and 12, township 24, range 1, west of the 5th meridian on the line of 15th Street, in the city of Calgary, Alberta. (File 11823.)

Stands until next sittings in Calgary.

1917. Application of the Vancouver, Victoria and Eastern Railway Company, under sections 227 and 364, for an order authorizing the changing of the position of the proposed connection with the Canadian Pacific Railway Company near Front and Columbia streets in the city of Vancouver; also authorizing the company to take the lands required for the purpose of making such connection; also approving of an agreement with the British Columbia Electric Railway Company, Limited, providing for the handling by the British Columbia Electric Railway Company of all cars intended to be taken over the said connection. (File 5734. Case 2342.)

Order made granting permission to join tracks and interchange traffic; work to be completed by November 3, 1909.

1918. Application of the Vancouver and Lulu Island Railway for authority to cross with branch line Grenville street, in the municipality of Point Grey, at a point 2,400 feet south of the south boundary of Vancouver, B.C. (File 10446.)

Order made granting crossing.

1919. Application of the Canadian Pacific Railway Company, under section 237 of the Railway Act, for an order approving highway crossing at the intersection of the right of way and Clarke Drive. Vancouver, B.C. (File 9799. Case 4784.)

Application dismissed.

1920. Complaint of the residents of Port Kells, B.C., that the Great Northern Railway Company have not provided proper station facilities for the handling of passengers and freight and that the company's officials refuse to sign shipping bills when receiving goods for transit. (File 11632.)

Order made that Great Northern Railway Company established train service as set forth in order. Order to come into effect March 1, 1910. See order No. 9342, dated January 18, 1910.

1921. Complaint of the municipality of Langley, B.C., that the Vancouver, Victoria and Eastern Railway and Navigation Company have completed their line from Cloverdale to Abbotsford, but have not given the public any service as yet, also that the railway refuse to put in crossings. (File 11743.)

Order made that Great Northern Railway Company establish train service as set forth in order. Order to come into effect March 1, 1910. See order No. 9342, dated January 18, 1910.

1922. Application of the Surrey Board of Trade, B.C., for an order compelling the Great Northern Railway Company to operate their line up the Fraser river between Cloverdale and Huntingdon, B.C. (File 11825.)

1 GEORGE V., A. 1911

Order made that Great Northern Railway Company establish train service as set forth in order. Order to come into effect March 1, 1910. See order No. 9342, dated January 18, 1910.

1923. Application of the Surrey Board of Trade, B.C., for an order to compel the New Westminster and Southern Railway Company to provide better train service to the villages and towns between Surrey and Vancouver and New Westminster, B.C. (File 11826.)

Order made that Great Northern Railway Company establish train service as set forth in order. Order to come into effect March 1, 1910. See order No. 9342, dated January 18, 1910.

1924. Application of H. Kenworthy, Mission Junction, B.C., for an order compelling Canadian Pacific Railway Company to allow repairs to be done on the Dewdney Dyke, B.C. (File 9862. Case 4807.)

Order made directing repairs to the embankment, subject to the conditions set forth in the order. Detail plans of the proposed sluice to be submitted for the approval of the Chief Engineer. See order No. 9456, dated February 1, 1910.

1925. Complaint of J. A. Maddaugh, Vancouver, B.C., alleging overcharge in freight rates on shipments of four cars of lumber from Maddaugh siding on the Great Northern Railway to Stoney Plains, Alberta, and refusal of the Canadian Pacific Railway to allow rebate. (File 12071.)

Railway company given leave to refund the sum of \$52.18 whereby the charge as made is in excess of charge provided in the original order of Board.

(See judgment of Commissioner McLean under appendix 'D.')

1926. Complaint of J. H. Cottrell, Vancouver, B.C., alleging excessive switching charges of the Canadian Pacific Railway on a shipment of W. V. Dawson & Company, Montreal, to his warehouse, and charge made for inspection of the Canadian Pacific Railway cars upon his premises. (File 11451.)

(See judgment Asst. Chief Commissioner, Appendix 'C.')

1927. Application of the Great Northern Transfer Company, Limited, under section 226, for an order directing the Canadian Pacific Railway to construct its siding in the city of Vancouver to the warehouse of the Great Northern Transfer Company, Limited, on Burrard Inlet, for the purpose of storing, dealing and disposing of coal. (File 12058.)

Order made authorizing construction of branch lines to be constructed within two weeks after the Great Northern Transfer Company has completed the work to be performed by it for construction of said branch line.

1928. Complaint of the residents of the vicinity of Cowichan Station, B.C.:—

(1) Passenger and freight rates be equalized with those in force in the eastern provinces.

(2) Delay in arrival and departure of trains, and for appointment of station agent.

(3) Inefficiency of cattle-guards.

(4) Cattle being killed on account of switching of trains, poor headlights on locomotives, and protection at crossings through loading yards.

(5) Posting in station of passenger and freight rates.

(6) Extra charge for purchasing tickets on trains.

(7) Changing of location fences along right-of-way.

(8) Overcrowding passenger cars on holidays.

(File 10087.)

Complaint settled by parties except as to No. 8, which is referred to Board's inspector to make a report on.

1929. Application of the Public Works Department of the government of British Columbia, under section 237, for an order directing the Red Mountain Railway Com-

SESSIONAL PAPER No. 20c

pany to provide and construct, for the protection, safety, and convenience of the public, a suitable highway crossing over the tracks of the Red Mountain Railway at a point a little south of Pattersons Station, B.C.

NOTE.—This application is set down for the purpose of determining the question of the apportionment of the cost of the said crossing, as per order of the Board No. 7787. (File 10900.)

The crossing having already been put in by the railway company, the matter will stand for the parties to arrange between themselves as to question of division of cost.

1930. Application of the city of Victoria, B.C., under sections 234, 238 and 239, for an order directing the Esquimalt and Nanaimo Railway Company to submit plans of a highway bridge, to erect foot bridges, remove barriers, enlarge a swing and other matters, and application for an interim order to remove barriers and allow use of highway across bridge pending application. (File 11118.)

Judgment reserved.

1931. Application of the Government of British Columbia for an order varying or rescinding order of the Board No. 5947, dated December 23, 1908, authorizing the Grand Trunk Pacific Railway to construct a bridge between Watson's Island and Kaizen Island, B.C. (File 4565. Case 4222.)

Order made rescinding order No. 5907, dated December 23, 1908.

1932. Application of the Grand Trunk Pacific Railway, under section 233, for authority to construct a bridge between Watson's Island and Kaizen Island, B.C. (File 4565. Case 4222.)

Order made rescinding order of the Board No. 5907, dated December 23, 1908.

1933. Complaint of F. W. Godsal, of Cowley, Alberta, and of the Board of Trade of Nelson, B.C., against alleged excessive passenger rates on the Canadian Pacific Railway steamers between ports of call on Kootenay and Arrow lakes, in the province of British Columbia. (File 5889.)

Judgment reserved.

1934. Petition of the residents of Salmo, B.C., requesting that the Spokane Falls and Northern Railway Company be required to construct a suitable highway crossing at Main street, Salmo, B.C. (File 11698.)

Withdrawn by complainants.

1935. Complaint of A. E. Watts, of Cranbrook, B.C., in regard to inflammable material left on rights-of-way of railways and the destruction of public roads, including the ones from Yahk to Copeland and Sicamous to Vernon, B.C. (File 11758.)

Complaint dismissed.

1936. Application of the residents of East Robson, Kootenay district, B.C., for an order directing the Canadian Pacific Railway Company to provide and construct a suitable accommodation for the loading and unloading of traffic by constructing a siding and a flag station in the vicinity of the bridge of the Columbia and Kootenay Railway near Castlegar, B.C. (File 11754.)

Order made directing erection of shelter on or near wharf at East Robson forthwith; Canadian Pacific Railway boats to call at said wharf when required for carriage of traffic to or from East Robson.

1937. Complaint of the Kootenay Shingle Company of Salmo, B.C., that the Great Northern Railway Company are not using the tariff fixed by the Board in regard to rates on shingles and refuse to refund them \$976.89 overcharge. (File 11821.)

Order made authorizing railway company to refund on basis of 67½ cent rate as provided in Canadian Pacific Railway tariff No. A—6. That in respect of shipments from Salmo to Ontario points other than main line points intermediate to Toronto, Ont., the rates complained of are in violation of the Railway Act in that a joint tariff has not been filed with Board as required by Section 335 of the Railway Act.

1 GEORGE V., A. 1911

Complaints respecting allowance of 500 pounds per car dismissed. See order No. 8683 dated November 4, 1909.

1938. Complaint of A. E. Watts of Wattsburg, B.C., *re* accommodation furnished by the Canadian Pacific Railway for the handling of traffic to and from Wattsburg, B.C. (File 9848.)

Order made approving location of station on plan filed and leave granted to company to do away with flag station at Swansea siding.

1939. In *re* complaint of J. F. Hunter, Boissevain, Man., against the manner in which the Canadian Pacific Railway Company handles freight at Boissevain. (File 12666.)

Complaint dismissed.

1940. Application of Tees & Persse, Limited, of Winnipeg, Man., for an order directing Canadian Pacific Railway Company to maintain a siding on what formerly was Point Douglas avenue in the city of Winnipeg, serving the premises of the applicants. (File 12219.)

Application dismissed.

1941. Complaint of Wilfrid Duquette, of Mile End, P.Q., that the Canadian Pacific Railway Company has failed to remove the snow from private sidings at Mile End, P.Q. (File 9755.)

Stands to enable the parties to settle the terms of an agreement which will be satisfactory to the complainant and the railway company.

Agreement afterwards made.

1942. Application of the Canadian Pacific Railway Company, under Section 237, for authority to construct additional line of railway across Park avenue in the town of St. Louis, county of Hochelage, P.Q. (File No. 12087.)

Application granted without prejudice to the town to make hereafter an application for protection at said crossing.

1943. Application of the Canadian Northern Quebec Railway Company under Section 237, of the Railway Act, for leave to construct its railway across the highways in the parish of Beauport at the following points: Mileage 1.22, 1.45, 1.73, 5.05 and 6.96, on the Montmorency branch. (File No. 12204.)

Application dismissed.

1944. Complaint of Ernest Lyster, of Gore station, P.Q., alleging poor facilities furnished by the Grand Trunk Railway Company of Canada for loading milk, and also against inadequate arrangements for passengers getting on or off the west-bound train. (File 10324.)

Application dismissed, no one appearing for the claimant.

1945. Complaint of Louis Vallee and others of La Baie du Febvram, P.Q., at respecting crossings of the Quebec, Montreal and Southern Railway Company, at that point and lack of proper cattle-guards and wing fences. (File No. 10294.)

Complaint dismissed.

1946. Application of the Dominion Park Company, Limited, of Montreal, P.Q., alleging excessive rates charged by the Bell Telephone Company for use of telephone at Dominion Park, Montreal, P.Q. (File No. 10501.)

Application dismissed, no one appearing for the applicant company.

1947. Application of the town of St. Louis for an order, under section 237, authorizing the applicant to carry its highway under the railway and to construct and maintain a tunnel under the track of the Canadian Pacific Railway Company at St. Lawrence Boulevard crossing, in the town of St. Louis, approving the plans, profiles, drawings and specifications of the said tunnel, and determining in what proportion the town of St. Louis, the Canadian Pacific Railway Company and the Montreal Street Railway Company shall each contribute towards the cost of the said tunnel. Adjourned hearing. (File 10982.)

SESSIONAL PAPER No. 20c

Order made that the Montreal Street Railway contribute \$15,000 towards the cost of construction of the tunnel; \$10,000 to be supplied from the Grade Crossing Fund—balance in accordance with the agreement between the town of St. Louis and the Canadian Pacific Railway Company.

1948. Application of the Canadian Pacific Railway Company, under sections 222 and 227, for authority to construct a branch line from a point at London section, mile 10.15, lot 6, concession 4, township of Etobicoke, to a point on Grand Trunk Railway, lot 9, concession 1, township of Etobicoke and 'Y' section. Terms of the order to be spoken to. Adjourned hearing. (File 10112.)

Order made authorizing the construction of the branch line and providing for installation of an interlocking plant at the expense of the applicant company. See order 9129, dated December 31, 1909.

1949. Application of the Grand Trunk Pacific Railway, under section 56, subsections 2 and 3, for leave to appeal to the Supreme Court in the matter of the location of its railway through Fort William, Ontario. (File 1519, Part 3.)

Order made that the Grand Trunk Pacific Railway Company be given leave to apply to the Supreme Court of Canada from order No. 8493, dated October 6, 1909, upon all questions of law arising.

1950. Application of the Canadian Pacific Railway and Grand Trunk Railway Companies, under section 29 of the Railway Act, for an order amending order of the Board made upon the application of J. J. Denman, No. 6701, dated February 19, 1909, order No. 6763 in *re* complaint of the Live Stock Commissioner of Alberta, and No. 6186 in *re* complaint of the Grain Growers' Grain Company, of Winnipeg, Manitoba, relative to grain doors. To be spoken to. (File 4106.)

Order dictated by Chief Commissioner. Draft to be submitted to the parties before the order is issued.

1951. Complaint of the Montreal Board of Trade Transportation Bureau *re* Canadian classification ratings on rubber goods in less than carloads. (Adjourned hearing.) (File 9428.2.)

Judgment reserved.

1952. Consideration of order of the Board No. 6969, dated May 6, 1909, in connection with passenger traffic from United States to Canadian Northern Ontario Railway points in Muskoka and Parry Sound districts. (File 6812.)

Order made refusing the application of the Canadian Northern Railway Company for an order directing the Grand Trunk Railway and Canadian Pacific Railway Companies, within a specified time, to file tariffs from frontier American points and non-competitive points on its line of railway.

1953. Application of the Bell Telephone Company, under section 246, subsection 2 of section 2, and section 5, for an order to forbid and restrain the Nipissing Power Company of Toronto, Ontario, from erecting, placing, and maintaining its lines or wires for the conveyance of light, heat, power and electricity across the lines of the applicant company between Powassan and North Bay, Ontario, along a certain highway commonly known as the Nipissing road, until permission of the Board shall have been obtained. (File 12551.)

Order made granting the application and granting leave to the respondents to appeal to the Supreme Court on questions of jurisdiction, if so advised.

1954. Application of the township of Orford, county of Kent, Ontario, under sections 235 and 243, for an order directing the Pere Marquette Railroad Company to provide gates where the company's tracks intersect the side road between lots 6 and 7, concession 5, township of Orford, at Highgate Station, Ontario. (File 11617.3.)

Order made for gates to be installed and maintained at the expense of the railway company. Plan to be furnished within 60 days from the date of order. See order No. 8942, dated November 30, 1909.

1 GEORGE V., A. 1911

1955. Application of the township of Orford, county of Kent, Ontario, under sections 235 and 243, for an order directing the Michigan Central Railroad Company to provide suitable gates where the company's tracks intersect the side road between lots 12 and 13, concessions 4 and 5, township of Orford, at Muirkirk Station, Ontario. (File 11617.2.)

Order made for gates to be installed by the Michigan Central Railroad Company. Plans to be furnished within 30 days from the date of the order; work to be completed within 60 days from the filing of the plans. Cost to be divided as follows:—one-fifth to be paid out of the grade crossing fund; one-fifth to be paid by the Pere Marquette Railway Company, and three-fifths to be paid by the Michigan Central Railroad Company. See order No. 8942, dated November 30, 1909.

1955a. Application of the township of Orford, county of Kent, Ontario, under sections 235 and 243, for an order directing the Michigan Central Railroad Company to provide suitable gates where the company's tracks intersect the side road between lots 6 and 7, concession 5, township of Orford, at Highgate Station, Ontario. (File 11617.1.)

Order made for gates to be installed by the Michigan Central Railway Company. Plans to be furnished within 30 days from date of order; work to be completed within 60 days from the filing of plans. Cost to be divided as follows: one-fifth to be paid by the Pere Marquette Railroad Company; one-fifth to be paid out of the Grade Crossing Fund, and three-fifths to be paid by the Michigan Central Railroad Company. See order No. 8942, dated November 30, 1909.

1956. Application of the township of Orford, county of Kent, under sections 235 and 243, for an order directing the Pere Marquette Railroad Company to construct gates where the company's tracks intersect the side road between lots 12 and 13, concessions 4 and 5, township of Orford, at Muirkirk Station, Ontario. (File 11617.4.)

Order made for gates to be installed by the Michigan Central Railroad Company. Plans to be furnished within 30 days from date of order; work to be completed within 60 days from the filing of plans. Cost to be divided as follows: one-fifth to be paid out of the Grade Crossing Fund; one-fifth to be paid by the Pere Marquette Railroad Company, and three-fifths to be paid by the Michigan Central Railroad Company. See order No. 8942, dated November 30, 1909.

1956a. Application of the township of Tilbury East, under section 251, for authority to construct a drainage work upon and across the property of the Canada Southern Railway Company on lot 16, in the 5th concession of the township of Tilbury East, in the county of Kent, Ontario, and to carry such drainage work across the railway company's property by means of a concrete culvert with a ten-foot in the clear opening. (File 12077.)

Judgment reserved until the drainage referee deals with the pending appeals.

1957. Application of the township of Tilbury East, under section 251, for authority to construct a drainage work upon and across the property of the Canadian Pacific Railway Company on lot 15, in the third concession of the township of Tilbury East in the county of Kent, Ontario, and to carry such drainage work across the said railway company's property by means of a concrete culvert with a ten-foot in the clear opening. (File 12078.)

Judgment reserved until the drainage referee deals with the pending appeals.

1958. Complaint of the townships of Raleigh and Tilbury East, Ontario, alleging that obstructions are being placed in Jeanette's and Baptist creeks, in the township of Tilbury East, by the Grand Trunk Railway Company of Canada by the construction of bridges. (File 10554.1.)

Application dismissed.

1959. Application of Absolan Gilbert, of the township of Southwold, Ontario, under sections 250 and 251, for an order directing the Grand Trunk Railway Com-

SESSIONAL PAPER No. 20c

pany of Canada to provide and construct a suitable drain under the railway to connect with the tile laid down on lot No. 37, south of the north branch of the Talbot road, in the township of Southwold, Ontario. (File 12300.)

Struck off the list.

1960. Application of the Board of Trade of Orillia, Ontario, for a union station. Adjourned hearing. (File 10568.)

Judgment reserved. Judgment December 3, 1909. (*See Appendix 'C.'*)

1961. Application of the Canadian Northern Ontario Railway Company, under section 159, for approval of its location between mileage 5.55 and mileage 10.29, being part of the Udney-Orillia branch through concession 11, township of Mara, and concessions 5, 6 and 7, township of South Orillia, Ontario. Adjourned hearing. (File 8437.2.)

Judgment reserved. Judgment December 3, 1909. (*See Appendix 'C.'*)

1962. Application of the Canadian Northern Ontario Railway Company, under section 277, for authority to cross the tracks of the Grand Trunk Railway Company of Canada, and the tracks of the Georgian Bay and Seaboard Railway Company at mile 7.4 of the Udney-Orillia branch in lot 30, concession 11, township of Mara, Ontario. Adjourned hearing. (File 10369.)

Judgment reserved. Judgment December 3, 1909. (*See Appendix 'C.'*)

1963. Application of the Canadian Pacific Railway Company, as lessee of the Georgian Bay and Seaboard Railway, under section 177, for authority to construct, maintain and operate a crossing of the tracks of the Grand Trunk Railway Company of Canada's spur to an ice house, for the town of Orillia, on the shore of Lake Couchiching, in the township of South Orillia, at mileage 29 of the Georgian Bay and Seaboard Railway Company's location. Adjourned hearing. (File 3021.)

Judgment reserved. Judgment December 3, 1909. (*See Appendix 'C.'*)

1964. Application of the Canadian Northern Railway Company, under section 176, for authority to take portion of land of the Grand Trunk Railway Company of Canada and of the Georgian Bay and Seaboard Railway between mile 7.90 and 10.29 on the applicant company's proposed location line between Udney and Orillia, concessions 5, 6 and 7, township of South Orillia, Ontario. Adjourned hearing. (File 10368.)

Judgment reserved. Judgment December 3, 1909. (*See Appendix 'C.'*)

1965. Application of the Georgian Bay and Seaboard Railway, under section 176, for authority to take and use certain lands belonging to the Grand Trunk Railway Company of Canada near Orillia, Ontario, for the purposes of its railway. Adjourned hearing. (File 10529.)

Judgment reserved. Judgment December 3, 1909. (*See Appendix 'C.'*)

1966. Application of the Canadian Pacific Railway Company on behalf of the Georgian Bay and Seaboard Railway, under section 177 of the Railway Act, 1903, for authority to construct, maintain and operate a crossing at rail level on the Midland Railway at mile 30.9 on the Georgian Bay and Seaboard Railway at Atherly Junction. Adjourned hearing. (File 2647.)

Judgment reserved. Judgment December 3, 1909. (*See Appendix 'C.'*)

1967. Application of J. R. Cockburn, of Toronto, Ontario, under section 250, for an order directing the Canadian Pacific Railway Company to rectify the wrongly constructed culvert and to construct and maintain a suitable culvert to carry off the water at Lily lake in the township of Humphrey, Ontario. (File 7926. Case 3622.)

Order made upon consent of the parties and in the terms thereof.

1968. Application of the Canadian Northern Ontario Railway Company for authority to place its lines or tracks across the lines or tracks of the Grand Trunk Railway Company of Canada (Midland division) near Scarboro Junction, Ontario. (File 12482.)

1 GEORGE V., A. 1911

Counsel to prepare draft order and settle terms, and then submit to the Board. Board's engineer to inspect and report before order is issued.

1969. Application of the Canadian Northern Ontario Railway Company, under section 227, for authority to place its lines or tracks across the lines or tracks of the Grand Trunk Railway Company of Canada (Peterborough branch), near Port Hope, Ontario. (File 12068.)

Order made in terms contained in the answer of the Grand Trunk Railway Company.

1970. Application of the Canadian Northern Ontario Railway Company, under section 227, for authority to cross with its lines and tracks the lines and tracks of the Grand Trunk Railway Company of Canada near Shannonville, Ontario. (File 12296.)

Counsel to prepare draft order and settle terms, and then submit to the Board. Board's engineer to inspect and report before order is issued.

1971. Application of the Canadian Northern Railway Company, under sections 227 and 228, for authority to place its lines and tracks across the lines and tracks of the Canadian Pacific Railway Company (Estevan branch), in the southwest quarter of section 29, township 2, range 6, west of the second meridian, and to join its lines and tracks with the lines and tracks of the Canadian Pacific Railway Company, in the northwest quarter of section 19, township 2, range 6, west of the second meridian, near Bienfait, Sask. (File 12476.)

Draft order to be prepared and settled by the parties and submitted to the Board's engineer to report on before order issues.

1972. Application of William Knechtel & Son, Hanover, Ontario, under section 226, for an order directing the construction and operation of a spur track or branch line from the tracks of the Grand Trunk Railway Company, in Hanover, Ontario, to the grist mill owned by the applicants. (File 12301.)

Application refused without prejudice to the Grand Trunk Railway Company to renew same as soon as it is in a position to do so. The material on file may be used in new application. Publication of notice dispensed with.

1973. Application of the Grand Trunk Railway Company of Canada, under section 257, for approval of reconstruction of highway bridge over the Grand Trunk Railway tracks at Margaret street, Berlin, Ontario. (File 11631.)

Order made authorizing the applicant company to reconstruct highway bridge over its tracks at Margaret street, Berlin.

1974. Petition of the council of Cannington, Ontario, that the Grand Trunk Railway Company of Canada be required to run an early train service for the carriage of passengers by way of Lorneville Junction, through Woodville, Cannington, Sunderland via Blackwater Junction to Toronto. (File 12426.)

Application withdrawn.

1975. Application of James Davy, Thorold, Ontario, for the restoration of the joint rate of two cents per hundred pounds on wood pulp, in carloads, from Thorold, Ontario, to Suspension Bridge, N.Y., via the Niagara, St. Catharines and Toronto Railway and Michigan Central Railroad Company, which has been advanced to three cents per hundred pounds. (File 11965.)

Order made directing the Niagara, St. Catharines and Toronto Railway Company to refund to the applicant \$219.83, and disallowing joint rate of three cents per hundred pounds at present in force from Thorold to Suspension Bridge, N.Y. The company required to restore by January 15, 1910, the rate of two cents per hundred pounds. See order No. 9031, dated December 2, 1909.

NOTE.—An appeal has been taken by the railway company herein to the Supreme Court of Canada.

1976. Complaint of the Sudbury Board of Trade that the rates on coal from the Niagara frontier to Sudbury are unreasonable and discriminative. (File 11479.)

SESSIONAL PAPER No. 20c

Order made directing the Michigan Central Railroad, the Canadian Pacific Railway, and Toronto, Hamilton and Buffalo Railway Companies to publish and file not later than March 1, 1910, the joint rate not exceeding \$2.60 per ton in carloads of the customary minimum rates from Black Rock, N.Y., and Suspension Bridge, N.Y., to Sudbury, Ontario. Also making provision for special mileage rates on coal and coke in carloads as therein set forth. See order of the Board No. 9271, dated January 12, 1910.

1977. Complaint of the Brown Brothers Company, Nurserymen, Limited, Brown's Nursery P. O., Ontario, that the Dominion and American Express Companies charge higher rates from Toronto to Fenwick than from Toronto to Welland, the former being an intermediate point. (File 11162.)

Stands pending the judgment of the Board in *re* general express inquiry.

1978. Complaint of Wagstaffe, Limited, of Hamilton, Ontario, that the Dominion Express Company charge higher rates on black currants from Montreal to Hamilton than from Hamilton to Montreal. (File 11822.)

Complaint dismissed.

1979. Application of the Georgian Bay and Seaboard Railway Company, under sections 222, 227 and 237, for authority to construct a branch line of railway from a point on the main line of the said railway in the town of Fesserton, thence crossing Sturgeon Bay road and joining the tracks of the Grand Trunk Railway Company at the points marked 'D' and 'C.' Adjourned hearing. (File 12122.)

Application refused.

1980. Application of the Georgian Bay and Seaboard Railway Company, under section 227, for authority to cross with its tracks the tracks of the Grand Trunk Railway Company of Canada at lot 16, concession 3, township of Eldon, county of Victoria, Ontario, at mileage 50.5 from Victoria Harbour, Ontario. Adjourned hearing. (File 11190.)

Order made authorizing applicant company to connect its lines with the lines of the Georgian Bay and Seaboard Railway Company upon the conditions set out in the order. The question of apportionment of the cost of installing and maintaining the interlocking plant to be settled by the companies, or in the event of their failure to agree, to be fixed by the Board.

1981. Application of the Grand Trunk Railway Company of Canada, under section 229, for authority to install, maintain, and operate a full interlocking plant at the crossing of the tracks of the Grand Trunk Railway Company between Clifton Junction and Stamford, Ontario, by the Niagara, St. Catharines and Toronto Railway Company, at the expense of the Niagara, St. Catharines and Toronto Railway Company. Adjourned hearing. (File 11514.)

Order made providing for the installation of a Hayes derail. The work to be done at the expense of the Niagara, St. Catharines and Toronto Railway Company and be completed by May 31, 1910.

1982. Application of the Grand Trunk Pacific Railway, under section 227, for an order authorizing the connection between the tracks of the Grand Trunk Pacific Railway (Lake Superior branch) and of the Canada Iron and Foundry Company at Mountain avenue, Fort William, Ontario. Adjourned hearing. (File 11056.)

Application dismissed.

1983. Application of the corporation of the village of Eganville, under section 234, for an order directing the Canadian Pacific Railway Company to erect a station furnishing adequate accommodation for the passengers using the trains of the said company and those desiring to travel on such trains in a location convenient to such persons and to the public. Adjourned hearing. (File 11403.)

1 GEORGE V., A. 1911

Order made on consent for station similar to that erected at Stittsville. Station to be completed by June 1, 1910.

1984. Application of the corporation of the village of Eganville, Ontario, under sections 237 and 238, for an order directing the Canadian Pacific Railway Company to fill in with planks or otherwise, the space between the rails on its railway along John street and Water street in the village of Eganville, Ontario. Adjourned hearing. (File 11404.)

Order made that planking is to be extended to within 75 or 100 feet of John street. Planking to be within rails and 8 inches on the outer side of each rail. Work to be completed by January 1, 1910.

1985. Complaint of the corporation of the city of Montreal, P.Q., on the service of the Montreal Park and Island Railway on the following points:—

1. That the cars do not stop at each street in Mount Royal Ward; Mr. Dillinger to inspect.

2. That the company erects poles in the centre of the streets; withdrawn.

3. That the company throw snow from its tracks into the streets; withdrawn.

4. That the company refuses to fill up the streets to the level of its tracks; Mr. Dillinger to inspect.

5. That the company has erected without authorization, poles on the Cote des Neiges Road. Withdrawn. (Adjourned hearing.) (File 9527.)

Order made directing the Montreal Park and Island Railway Company to stop its cars for the purpose of allowing passengers to get on and off at the streets named in the order. See order No. 8941, dated December 7, 1909.

1986. Application of the Canadian Pacific Railway Company, under Section 222, for authority to construct, maintain, and operate industrial spurs for the Speitz Furniture Company, and for the Hanover Portland Cement Company, at Hanover, Ont. (Adjourned hearing.) (File 11756.)

Order made authorizing applicant company to cross, at its own expense. Crossing to be protected by interlocking plant.

1987. Application of the Canadian Pacific Railway Company, under Section 227, for authority to maintain an industrial spur for the Speitz Furniture Company and the Hanover and Portland Cement Company at Hanover, Ontario, across the industrial spur of the Knechtel Furniture Company, owned jointly by the applicant company and the Grand Trunk Railway Company of Canada. (Adjourned hearing.) (File 12288.)

Order made authorizing the construction of the spurs.

1988. Application of the town of St. Louis, Quebec, for an order under Section 237, authorizing the applicant to extend its highway across the Canadian Pacific Railway Company's tracks where the said railway intersects Atlantic avenue, in the town of St. Louis, county of Hochelaga, Quebec. (File 12511.)

Order made authorizing the crossing, the expense to be borne by the town of St. Louis.

1989. Application of the town of St. Louis, Quebec, under Section 237, authorizing the applicant to extend its highway across the Canadian Pacific Railway Company's tracks where the said railway intersects Park avenue in the town of St. Louis, Quebec, and that gates, or other protective measures, be provided at that point. (File 12912.)

Town of St. Louis to file scheme of grade separation within thirty days from date, for approval of the Board, otherwise the application to be dismissed.

1990. Application of the Niagara, St. Catharines and Toronto Railway Company, under section 159, for approval of the location of its line of railway from mileage 12.17 to mileage 18.55 through the townships of Crowland and Humberstone, and for

SESSIONAL PAPER No. 20c

an order under section 228, authorizing the construction of a transfer track from the said location on Elm street in the village of Port Colborne to the siding of the Dominion Government elevator. (File 3025.2.)

Order made approving revised location. See order 9552, dated February 3, 1910.

1991. Application of the Niagara, St. Catharines & Toronto Railway Company, under Section 237, for authority to construct its line of railway (Port Colborne Extension) across certain highways in the village of Port Colborne, county of Welland, as follows:

Public Road known as Killally street.

Public Road known as Clarence street. (File 3025.3.)

Order made granting the application. See order 9552, dated February 3, 1910.

1992. Application of the Niagara, St. Catharines & Toronto Railway Company, under section 237, to construct its line of railway (Port Colbrone extension) across certain highways in the township of Humberstone, county of Welland, Ontario, as follows:—

Town line between lot 27, township Humberstone and lot 27, township of Crowland;

Concession road between concessions 4 and 5;

Neff and Thompson streets, village of Humberstone;

Concession Road between concessions 2 and 3.

Public road known as Killally street between Concessions 1 and 2;

Main street west, village of Humberstone. (File 3025.4.)

Order made granting the application. See order No. 9552, dated February 3, 1910.

1993. Application of the Niagara, St. Catharines & Toronto Railway Company, under Section 237, for authority to construct its line of railway (Port Colborne Extension) across certain highways in the township of Crowland, county of Welland, Ontario, as follows:—

Public road on north and south sides on the canal feeder, at station 307.85 and 309.56.

Public road at Mile 11.97 on the north side of the government raceway.

Town line between lot 27, township of Crowland and lot 27, township of Humberstone. (File 3025.5.)

See No. 1991, order No. 9552, dated February 3, 1910.

1994. Application of the Niagara, St. Catharines & Toronto Railway Company, under Section 227, for authority to cross with lines and tracks the lines and tracks of the Wabash Railway as lessee of the Grand Trunk Railway Company (air line), in the township of Humberstone, in the county of Welland, Ontario. (File 12418.)

See No. 1991 order No. 9552.

1995. Application of the Niagara, St. Catharines & Toronto Railway Company, under Section 227, for authority to cross with its lines and tracks, the lines and tracks of the Grand Trunk Railway Company of Canada (Buffalo-Goderich division) in the township of Humberstone, in the county of Welland, Ontario. (File 12419.)

See No. 1991, order No. 9552, dated February 3, 1910.

1996. Complaint of Jas. Pender & Company, St. John, N.B., respecting rates on iron goods from St. John N.B., to points on the Quebec Central Railway. (File 10720.)

Order made that Supplement 3 to Special Tariff C.R.C. 937 be disallowed and the railway company directed to restore not later than January 10, 1910, the former rates of 16½ cents per 100 pounds on carloads and 25 cents per 100 pounds on less than carloads on the said traffic.

1997. Complaint of the Portland Rolling Mills, Limited, of St. John, N.B., against the rates charged on bar-iron nails from St. John, N.B., to Quebec Central Railway points. (File 10720.1.)

1 GEORGE V., A. 1911

Order made that Supplement 3 to Special Tariff C.R.C. 937 be disallowed and the railway company directed to restore not later than January 10, 1910, the former rates of 16½ cents per 100 pounds on carloads and 25 cents per 100 pounds on less than carloads on the said traffic.

1998. Complaint of the Maritime Nail Company, Limited, against the rates charged on bar-iron and nails from St. John, N.B., to points on the Quebec Central Railway points. (File 10720.2.)

Order made that supplement 3 to special tariff C. R. C. 937 be disallowed and the railway company directed to restore not later than January 10, 1910, the former rates of 16½ cents per 100 lbs. on car loads and 25 cents per 100 pounds on less than car loads on the said traffic.

1999. Application of the Board of Trade, Montreal, Que., under section 323, for an order directing the Canadian Pacific Railway Company to publish tariffs covering milling-in-transit arrangement on corn received at Montreal by rail from Georgian Bay elevator ports and from Detroit, the product of which is re-shipped to points east in the province of Quebec, also to St. John and points in New Brunswick for domestic consumption and also for furtherance by water to outports. (File 12384.)

Application dismissed.

2000. Application of the Canadian Flour Mills Company, Limited, of Chatham, Ontario, for an order directing the Grand Trunk and Canadian Pacific Railway Companies to restore the milling-in-transit arrangement on corn at Chatham, Ontario. (File 7917.)

Application dismissed.

2001. Application of the British American Oil Company, Limited, of Toronto, Ontario, under section 315, for an order directing the Grand Trunk and Canadian Pacific Railway Companies to adjust the present rates from Toronto on petroleum and its products so that they may be properly related to the commodity rates from Petrolia and Sarnia, Ontario. (File 1220.)

Judgment reserved. March 30, 1910, judgment.

For reasons, see Appendix 'C.'

2002. Application of the Canadian Freight Association for approval of proposed regulations for the carriage of inflammable articles and acids restricted to freight cars in freight and mixed trains. (Adjourned hearing.) (File 1717.1.)

Application dismissed.

2003. Complaint of the Canadian Manufacturers' Association, Toronto, Ontario, against the rates covered by the Great Northwestern Telegraph Company's tariff, C.R.C. No. 10, and C.P. supplement No. 2 to C.R.C. No. 1, and Western Union tariff, C.R.C. No. 5, in connection with the counting of words in domestic messages. (File 10041.)

Order made that the proposed amendments to rule 4 in so far as the same apply to code messages between points in Canada, and when embodied in proper tariffs filed by the telegraph companies with the board, be approved. The amended rule to be put in force not earlier than July 1, 1910.

2004. Application of the Canadian Northern Ontario Railway Company, under section 317, for an order directing the Grand Trunk Railway Company of Canada to construct sidings from its line to the right-of-way of the applicant company near the authorized point of crossing of the said companies in concession D, in the township of Scarborough, Ontario. (File 13079.)

Order made authorizing the applicant company to construct the sidings, subject to conditions set forth in order. Leave granted to Grand Trunk Railway Company to appeal to Supreme Court of Canada on all questions of law arising under the order. Order of Board of January 4, 1910, rescinded. See order No. 9243, dated January 16, 1910.

SESSIONAL PAPER No. 20c

2005. Application of the Canadian Northern Ontario Railway Company, under section 237, for authority to construct its lines and tracks across public road diversion of lot 21, concession 5, at station 1670.53, township of Darlington, county of Durham, Ontario. (File 3878.56.)

Order made on consent of the township of Darlington granting the application.

2006. Application of the Department of Public Works of the province of Ontario, under section 237, for authority to construct an overhead crossing over the Canadian Pacific Railway (Soo Branch) by the Sudbury Soo Trunk Wagon Road, at lot 5, concession 1, township of Drury, Ontario. (File 11564.)

Order made authorizing overhead crossing at the expense of the applicants. Order 9153, dated January 15, 1910, rescinded.

2007. Application of the Department of Public Works of the province of Ontario, under section 237, for authority to construct an overhead crossing over the Canadian Pacific Railway (Soo Branch) by the Sudbury Soo Trunk Wagon Road at lot 1, concession 11, township of Baldwin, Ontario. (File 11566.)

Order made authorizing overhead crossing at the expense of the applicants.

2008. Application of the Department of Public Works of the province of Ontario, under section 237, for authority to construct a grade crossing over the Canadian Pacific Railway (Soo Branch) by the Sudbury, Soo Trunk Wagon Road at lot 10, concession 5, township of Hallam, Ont. (File 11567.)

Order made authorizing overhead crossing at the expense of the applicants.

2009. Application of the Canadian Northern Ontario Railway Company, under section 227, for authority to place its lines or tracks across the lines or tracks of the Grand Trunk Railway Company of Canada near Brighton, Ont. (Adjourned hearing.) File 3878.22.)

Application withdrawn as another application in substitution therefor had been made authorizing the crossing in accordance with the agreement made between the applicant company and the Grand Trunk Railway. See order No. 9157, dated January 5, 1910.

2010. Application of the corporation of St. Jacques des Piles, Que., for an order directing the Canadian Pacific Railway Company to provide and construct a suitable highway crossing where the company's line intersects 'I' Street, at St. Jacques des Piles, Que. (File 12376.)

Order made dismissing application.

2011. Application of the Canadian Northern Ontario Railway Company, under section 227, for authority to construct its lines or tracks across the lines or tracks of the Grand Trunk Railway Company of Canada near Powassan, Ont., on lot 14, concession 9, township of Himsworth, district of Parry Sound, at about mileage 216.15 west from Ottawa. (File 11221.)

Order made granting the application. All questions arising respecting the extension of abutments at the said crossing in case the Grand Trunk Railway decides to double track reserved for future consideration of the Board. See order 9286, January 4, 1910.

2012. Application of the Montreal Light, Heat & Power Company, for authority to cross with an underground cable the tracks of the Canadian Northern Quebec Railway Company, and of the Montreal Terminal Railway Company, at Laurier avenue, Tetreauville, near Montreal, P.Q. (File 12474.)

Order made granting application.

2013. Application of the city of Montreal, P.Q., and William Payette, of the said city, and others, under Section 238, for an order directing the Canadian Pacific Railway Company to construct a tunnel under its railway at Iberville street, pursuant to its contract with the said city.

1 GEORGE V., A. 1911

(NOTE). The question to be considered is whether the city of Montreal or the Canadian Pacific Railway Company, should pave and sidewalk the subway. (File 10088.)

Application refused.

2014. Consideration of the question of protection at the level crossing of the Canadian Pacific Railway Company at Mile Post 18.6 on the Brockville branch at the Main road between Brockville and Smiths Falls, Ont. (File 9437.125.)

Judgment reserved.

2015. Consideration of the question of protection to be provided at level crossing of the Grand Trunk Railway Company of Canada at Ontario street, Kingston, Ont. (File 9437.122.)

Order made that rate of speed at which the Grand Trunk, Kingston & Pembroke and the Bay of Quinté Railway Company may operate trains over the railway crossing be limited to six miles per hour. See order No. 9287, dated January 4, 1910.

2016. Consideration of the question of protection at the level crossing of the Canadian Pacific Railway Company at Peterboro street, Norwood, Ont. (File 9437.108.)

Judgment reserved.

2017. Consideration of the question of prohibiting brakemen from riding on the top of freight cars and reducing the height of bridges to 17 feet or to a height sufficient to permit the highest freight car passing thereunder. (File 12917.)

Discussion had and announcement made that Board would not interfere.

2018. Consideration of proposed draft order in *re* flag station shipments. (File 4205. Case 871.)

Order made that all railway companies subject to the jurisdiction of the Board within six months from the date of the order construct on their lines in Manitoba, Saskatchewan and Alberta at stations other than regular agents' stations from or to which freight L.C.L. where passenger traffic is carried, suitable shelters or waiting rooms for the accommodation of passengers and freight. See order No. 9160, dated January 6, 1910.

2019. In the matter of the application of the Ontario and Minnesota Power Company, Limited, under Section 5 of the Act respecting the Ontario and Minnesota Power Company, Limited, (4-5 Edw. VII., 1905), chapter 189 (Canada) permitting the applicant to divert and use, in the United States, electricity to the extent of six thousand horse-power developed by the applicant on the Rainy river at or near Fort Frances, District of Rainy River, Ont., Canada. (File 12368.)

Order made that applicants have leave to divert and use in the United States 6,000 of electric horse-power developed on the Canadian side of the river at Fort Frances on condition that the order may at any time be rescinded by the Board or the number of horse-power be reduced. All questions arising on application of the town of Fort Frances on fixing of price of power for users in Fort Frances reserved. See order 9326, dated January 18, 1910.

2020. Petition of Col. Sam. Hughes, M.P., and others that the Canadian Pacific Railway Company be required to make connections at Peterborough, Ontario, with Grand Trunk Railway Company of Canada. (File 12900.)

Application refused.

2021. Complaint of Clarkson Brothers, of Ymir, B.C., alleging lack of proper facilities and station accommodation at Porto Rico, B.C., on the Nelson and Fort Sheppard Railway. (File 13112.)

Order made for construction of a seven car spur at Porto Rico by railway company, to be completed by February 25, 1910. Applicant to pay 6 per cent of the cost of construction of the extra track.

2022. Complaint of Clarkson, Brothers, of Ymir, B.C., alleging lack of proper facilities and station accommodation for the handling of freight traffic at Tamarac, B.C., on the Nelson and Fort Sheppard Railway. (File 13111.)

SESSIONAL PAPER No. 20c

Order made for construction of a four car spur track by the railway company at its own expense. The work to be completed by February 25, 1910.

2023. Application of the Montreal Board of Trade, under section 323, for an order directing the Canadian Pacific Railway Company and the Grand Trunk Railway Company of Canada to publish rates on wheat, oats, and barley, 'ex-lakes' from Montreal to points in the provinces of Ontario and Quebec on the same mileage basis in force on the same commodities from Georgian Bay Elevator ports to points in Ontario. (File 12547.)

Judgment reserved.

2024. Complaint of Messrs. James Richardson & Sons, of Kingston, Ontario, alleging that the rate of 7 cents per 100 pounds, from Kingston, Ontario, to Montreal, P.Q., on western grain arriving at Kingston by vessel and destined to points in Ontario and the maritime provinces as provided by order of the Board No. 6166 dated January 13, 1909, is excessive and applying for a rate on the said grain of 5 cents per 100 pounds from Kingston to Montreal.

Complaint dismissed.

2025. Consideration of the making of a general order pursuant to the provisions of the Railway Act establishing the places at which inspection of carload freight will be made by railways. (File 13109.)

Board decide not to make any order.

2026. Consideration of evidence and argument as to the charges made by railway companies subject to the Board's jurisdiction for the storage of passengers' baggage which are alleged to be excessive. (File 13024.)

Judgment reserved.

2027. Consideration of the sleeping and parlor car tariffs generally of the railway companies subject to the jurisdiction of the Board. (File 9451.)

Judgment reserved. Board's chief traffic officer to meet and confer with representatives.

2028. Application of the Canadian Northern Ontario Railway Company, under section 237, for authority to construct lines and tracks across public road between lots 14 and 15, concession 3, at station 625, township of Scarboro, county of York.

Application dismissed with leave to the municipality to renew the application at a future time if so advised.

2029. Application of the Canadian Northern Ontario Railway Company, under section 237, for authority to construct its lines and tracks across public road between lots 12 and 13, concession 4, township of Scarboro, county of York.

Referred to the Board's engineer to inspect and report. All parties interested to be notified of the date of the inspection.

2030. Consideration of the question of protection at the level crossing of the Grand Trunk Railway Company at King street, Berlin, Ontario. (File 9437.124.)

Order made directing company to instal and maintain bells at Lancaster, Strange, Queen and Mill streets. Cost of installing and maintenance to be borne and paid one-third by the municipality, two-thirds by the railway company. Work to be completed by July 27, 1910. See order No. 9408.

2031. Consideration of the question of protection at the level crossing of the Grand Trunk Railway Company of Canada at Queen street, Palmerston, Ont. (File No. 9437.115.)

Order made that upon the town of Palmerston passing a by-law closing Queen street to vehicular traffic, the Grand Trunk Railway Company to construct, at its own expense, a subway for pedestrian traffic on Queen street. The work to be completed by July 1, 1910. The municipality to light the subway at own expense. Twenty per cent of the cost of the subway to be paid out of the Grade Crossing fund. See order No. 9478, dated February 4, 1910.

1 GEORGE V., A. 1911

2032. Consideration of the question of protection at the level crossing of the Canadian Pacific Railway Company at Dundas Street, Cooksville, Ontario. (File 9437.104.)

Matter stands until next sittings of Board at Toronto. Canadian Pacific Railway to bring the matter to the attention of township and furnish the Board with copy of the plan submitted at the hearing to-day.

2033. Application of the Canadian Northern Ontario Railway Company, under section 237, for authority to construct its lines of railway across the public road between lots 2 and 3, concession B, township of Hamilton, county of Northumberland, at station 204.30. (File 3878.64.)

Order made authorizing the applicant company to cross.

2034. Application of the Canadian Pacific Railway Company for a change of location of the interchange track between the Grand Trunk and Canadian Pacific Railway Companies at Galt, Ontario. (File 1380. Case 1731.)

Stands until the next sittings of the Board in Toronto or some convenient point should the Board fix a sittings at such.

2035. Application of the municipal corporation of the township of Louth, Ontario, for an order, under section 238, directing the Grand Trunk Railway Company of Canada to provide by electric bells or other suitable means, protection for the safety of the public, at the crossing at lot No. 5, by the said railway, of the concession road between the third and fourth concessions of the said township, being a highway known as the middle road leading to the city of St. Catharines. (File 12846.)

Stands until the next sittings of the Board or some other convenient point should the Board fix a sittings at such.

2036. Application of the Canadian Northern Ontario Railway Company, under section 159, for sanction and approval of the location of its line of railway through the township of Hamilton, county of Northumberland, mile 170.8 to mile 177. (File 3878.43.)

Stands by consent until the next sittings of the Board in Toronto.

2037. Application of the city of Brantford, Ontario, for an order approving of proposed bridge to be situated on South Market Street, over the tracks of the Toronto, Niagara and Western Railway; the Grand Trunk Railway; the Brantford and Hamilton Electric Railway; and the canal of the Western Counties Electric Railway. (Adjourned hearing.) (File 8528.)

Application stands to enable the parties to come to a satisfactory arrangement regarding the Union Station.

2038. Application of the Toronto, Hamilton and Buffalo Railway Company, under sections 222 and 237, for leave to construct, maintain and operate two branch lines of railway or spurs in the northeast part of the city of Hamilton, Ontario, extending from a point on its easterly belt line of railway in the said city, situate upon lot 7, in the 1st concession in the township of Barton, and running thence westerly and southerly and across Whitfield avenue to and into the lands of F. W. Bird & Sons. (File 12546.)

Order made authorizing the construction of the branch line in question. Such branch line to be constructed within six months from the date of the order. See order 9426, dated January 27, 1910.

2039. Application of the Canadian Northern Ontario Railway Company, under section 237, for authority to construct its lines and tracks across the public road between lots 18 and 19, concession 2, township of Scarboro, county of York. (File 3878.25.)

Order made authorizing the crossing.

2040. Application of the Canadian Northern Ontario Railway Company, under section 237, for authority to construct its lines and tracks across public road between

SESSIONAL PAPER No. 20c

lot 32, concession C, and part of lot 32, concession B, at station 837.95, in the township of Scarboro, county of York. (File 3878.26.)

Order made authorizing the crossing. Applicant company to cut down and remove certain trees for a distance of 100 feet on both sides of the crossing. See order 9412, dated January 27, 1910.

2041. Application of the Canadian Northern Ontario Railway Company, under section 237, for authority to construct its lines and tracks across public road between lots 28 and 29, concession C, at station 313, in the township of Scarboro, county of York. (File 3878.28.)

Order to go as stated at the hearing. The railway company to file new plan.

2042. Application of the Canadian Northern Ontario Railway Company, under section 237, for authority to construct its lines and tracks across public road between lots 34 and 35, concession B, at station 173.50, in the township of Scarboro, county of York. (File 3878.32.)

Order made authorizing the crossing.

2043. Application of the Canadian Northern Ontario Railway Company, under Section 237, for authority to construct its lines and tracks across public road between south part of lot 22, concession 2, and north part of lot 22, concession 1, at station 477, township of Scarboro, county of York, Ontario. (File 3878.36.)

Order made approving the crossing. The question of protection reserved for further consideration, if the municipality is advised to renew the application.

2044. Complaint of Edward Clark & Son, of Toronto, Ontario, that the Central Ontario Railway will not furnish cars for shipment of lumber from Cordova, a point on a branch line from Marmora Junction, Ontario.

(NOTE). The Central Ontario Railway will be required to show cause why they should not be ordered to operate the line of railway incorporated under the Ontario, Belmont and Northern Railway and subsequently changed to the Marmora Railway and Mining Company. (File 13363.)

Complaint dismissed.

2045. Application of the G. Carter Son & Co., Limited, of St. Mary's, Ontario, for an order directing the Grand Trunk Railway Company of Canada to put into effect the same rate on corn from Chicago to St. Mary's as that in force from Chicago, Buffalo and intermediate points. (File 12541.)

Application withdrawn with leave to renew the application at any future time if desired.

2046. Application of the Canadian Northern Ontario Railway Company, under Section 237, for authority to construct its lines and tracks across public road between lots 14 and 15, concession 3, at station 625, township of Scarboro, county of York.

Application dismissed with leave to the municipality to renew the application at a future time if so advised.

2047. Application of the Canadian Northern Ontario Railway Company, under Section 237, for authority to construct its lines and tracks across public road between lots 12 and 13, concession 4, township of Scarboro, county of York.

Referred to the Board's engineer to inspect and report. All parties interested to be notified of the date of the inspection.

2048. Petition of the residents of the Pas, N.W.T., for an order compelling the C.N.R., to provide a regular train service between Hudson Bay junction and the Pas. (File 12792.)

Order made authorizing the opening for traffic. The railway company to provide and furnish mixed train service, once a week each way. Speed limitation eighteen miles an hour.

1 GEORGE V., A. 1911

2049. Application of the National Transcontinental Railway, under Sections 237 and 228, for an order to cross terminal tracks and spur tracks of the Winnipeg Transfer Railway; Thomas Black & Co., and Codville & Co., operated by the Canadian Northern Railway Company, Winnipeg, Manitoba. (Adjourned hearing.) (File 10786.)

Order made dismissing the application with leave reserved to renew the same.

2050. Complaint of the residents of Chambly, Marieville, St. Cesaire, Granby and Waterloo, Quebec, alleging unsatisfactory equipment and irregular train service furnished by the Central Vermont Railway Company and the Grand Trunk Railway Company, of Canada, in connection with traffic to and from those points. (Adjourned hearing.) (File 6395.)

Complaint dismissed.

2051. Application of the Canadian Northern Ontario Railway Company, under section 237, for authority to cross and divert the Montreal and Ottawa road in the township of Clarence, county of Russell, at mileage 29 west from Hawkesbury, Ont. (Adjourned hearing.) (File 4847. Case 1530.)

Order made authorizing the crossing and diversion.

2052. Consideration of the question as to what protection should be ordered at the skew crossing of the Canadian Pacific Railway Company, at concessions 2 and 3, opposite lot, in the township of Lobo, mileage 9.2, Windsor section. (File 13021.)

No action taken.

2053. Application of the Vancouver, Victoria & Eastern Railway and Navigation Company under Sections 227 and 237, for authority to carry industrial tracks over the tracks of the British Columbia Electric Railway Company, also over the following streets in the city of Vancouver, British Columbia, Harris and Hastings streets, between Barnard and Harris; over Barnard street; over Harris street; over lane between Harris and Keefer streets; over Bender street; over land between Bender and Hastings streets; over Raymur avenue between Hastings and Cordova streets and over Cordova street. (File 13224.)

Order made on consent for No. 'C' track on the railway company filing plans with the consent of the city endorsed thereon. The balance of the application stands until the next sitting of the Board in Vancouver.

2054. Supplements of minutes of the draft order in connection with Part I of the Toronto grade separation showing the crossings of Dufferin, Dunn, Jameson, Dowling, Sunnyside and Howard avenue and Indian road in the western end of the city and Ellis and Windermere avenues and James street in the township of York, and Queen street in the township of Etobicoke; also determining the distribution, if any, to the cost by the townships of Etobicoke and York with respect to the crossings in these municipalities, and the contribution, if any, by the city with respect to the crossings at Dunn and Dowling avenues, James street, Queen street and Indian road, and the two crossings at High Park. (File 588.6.)

Order settled.

2055. Application of the town of Maisonneuve, Quebec, for an order directing the Canadian Northern Quebec Railway to establish and maintain gates at the intersection of all streets and avenues crossed by the railway company in the limits in the town of Maisonneuve.

By agreement the railway company is to install bells at such streets as the chief engineer of the Board may recommend, (if any.) The question of the division of cost reserved.

2056. Consideration of the question of protection at the level crossing of the Grand Trunk Railway Company, of Canada, at 18th street Lachine, province of Quebec. (File 9437.121.)

Order made for the installation of a Whyte signal bell bonded 1000 feet in each direction; 20 per cent of the cost to be taken from the Grade Crossing Fund. The

SESSIONAL PAPER No. 20c

balance to be paid by the railway company. The bell to be maintained at the expense of the railway company. The earth referred to in the engineer's report to be removed by the railway company. All work to be completed by June 1, 1910.

2057. Consideration of the question of protection at the level crossing of the Canadian Pacific Railway Company at Merry street, Magog, province of Quebec. (Adjourned hearing.) (File 9437.110.)

Order made providing for installation of electric bell at the expense of the railway company. The railway company to remove crossing sign poles to eastern side of road and plank the tracks for the full width of the street and make the approach to correspond. The town to fill in the northwestern approach to the bridge with earth so as to bring it up level with the railway, and to erect and maintain a substantial fence. All work to be completed on or before May 1, 1910. See order 9829, dated March 9, 1910.

2058. Consideration of the question of protection at the level crossing of the Grand Trunk Railway Company of Canada, at Lachine road, Rockfield, province of Quebec. (Adjourned hearing.) (File 9437.119.)

Order adding parties. Further consideration postponed.

2059. Consideration of the question of protection at the level crossing of the Canadian Pacific Railway Company at St. Luc road, Notre Dame de Grace, province of Quebec. (Adjourned hearing.) File 9437.112.)

Canadian Pacific Railway ordered to prepare plans within thirty days and submit the same to the municipality.

2060. Consideration of the question of protection at the level crossing of the Canadian Pacific Railway Company at St. Louis Street, Farnham, province of Quebec. (File 9437.118.)

Order made adding the Central Vermont Railway Company as parties. The application to stand until their answer filed.

2061. Consideration of the question of protection at the Grand Trunk Railway crossing at King Street, Sherbrooke, Quebec. (File 2267. Case 1436.)

Order made rescinding order 5927, dated December 4, 1909, and providing that the railway company install gates at said crossing by May 1, 1910. Twenty per cent out of Railway Grade Crossing Fund; 20 per cent by city of Sherbrooke; 20 per cent by the Street Railway Company, and 40 per cent by the Grand Trunk Railway Company. Cost of maintaining and operating gates to be borne and paid one-half by the Street Railway Company and one-half by the Grand Trunk Railway Company. Shunting across the street to be limited and the city of Sherbrooke to be at liberty to apply at any time for further relief if shunting carried on to an unreasonable extent.

2062. Consideration of the question of protection at the level crossing of the Canadian Pacific Railway Company, at Main Street, Farnham, province of Quebec. (Adjourned hearing.) (File 9437.114.)

Order made adding the Central Vermont Railway Company as parties. The application to stand until after their answers filed.

2063. Application of the town of Maisonneuve, county of Hochelaga, Quebec, under the Railway Act, for an order directing the Canadian Northern Railway to raise its railway tracks between First Avenue and Bennett Avenue to the level of said avenues as given by the town engineers, town of Maisonneuve, Quebec. (File 12453.)

Order made on consent directing the railway company to raise its tracks between First and Bennington Avenues to the grade of the railway companies at the said streets. The work to be finished by June 1, 1910, and any dispute in connection therewith to be referred to the Board's engineer for settlement.

2064. Application of the town of Maisonneuve, county of Hochelaga, Quebec, under section 30, for an order regulating the use of steam whistle, by the Canadian

1 GEORGE V., A. 1911

Northern Quebec Railway in the limits of the said town of Maisonneuve, Quebec. (File 12451.)

Order made prohibiting unreasonable and unnecessary whistling and providing for a penalty of \$50.

2065. Application of Télesphore Laferriere, of the parish of St. Cuthbert, province of Quebec, under sections 252 and 253, for order directing the Canadian Pacific Railway Company, to construct a suitable farm crossing where the railway crosses in lot 188 of the official cadastral of the parish of St. Cuthbert, county of Berthier, province of Quebec. (File 10992.)

Application refused but leave reserved for any successor in title to lot 188 to apply for a farm crossing.

2066. Complaint of Léon Lamontagne, of St. Malachie, that the Transcontinental Railway have taken 100 feet of his land, and that in order to cross the said property they made a cut at right angles instead of putting in an overhead bridge, therefore allowing snow to accumulate causing damages to his land.

NOTE.—That the solicitors for the complainant submit that while the Transcontinental Railway Commission have authority to take possession of the lands in question, but no disposition in the Act relating to same relieves this commission from public duties which are binding on other railways. (File 13136.)

Application dismissed, no one appearing for complainant.

2067. Application of the Saraguay Electric and Water Company, under section 246, for leave to erect, place and maintain its underground cable crossing across the tracks of the Montreal Terminal Railway Company, at Rue St. Pierre, Tetreauville, parish of Pointe aux Trembles, province of Quebec. (File 13283.)

Order made. All engineering features to be settled by the Board's engineer.

2068. Application of James Stewart Buchan, for approval under section 26, of the Exchequer Court Act, allowing petitioners to apply at Exchequer Court for an order or decree ordering the sales of assets of the Montreal Central Terminal Railway Company, the appointment of a liquidator or receiver for the affairs of the said railway respondent, and for such other remedies and orders concerning the said railway respondent as the said Exchequer Court may prescribe. (File 13001.)

Application stands pending application to the Exchequer Court. Subsequently dismissed.

2069. Complaint of Messrs. Auger & Son, of Quebec, alleging that they are unable to secure large capacity cars of not less than 35 feet long for the movement of pulpwood shipments from points on the Quebec Central Railway. (File 12667.)

Application dismissed.

2070. Complaint of Wilfrid Duquette, of Mile End, province of Quebec, that the Canadian Pacific Railway Company has failed to remove the snow from private sidings at Mile End.

Complainant alleges that he was unable to come to any agreement with the railway company on the question of refund of the cost of his two sidings. (File 9755.)

Complaint dismissed, the matter having been settled between the parties.

2071. Complaint of Walter Ryan, 162a Mansfield Street, Montreal, Quebec, that the Bell Telephone Company is charging him \$35 per annum for his household phone, and that the company threaten to remove the phone if he does not pay the charges asked. (File 3574.4.)

Complaint dismissed.

2072. Complaint of T. J. O'Neill, Montreal, Quebec, against the rates and service of the Bell Telephone Company. (File 9714.)

Order made that the applicant is entitled to have the \$30 tariff applied to his service from February 1, 1910.

2073. Complaint of the Dominion Park Company, Limited, alleging excessive rates charged by the Bell Telephone Company, of Canada, Limited, for the use of telephones at Dominion Park in the city of Montreal. (File 10501.)

Judgment reserved.

SESSIONAL PAPER No. 20c

2074. Application of Elder, Dempster & Company, under section 323, for order directing the Canadian Pacific Railway Company and the Grand Trunk Railway system to apply the established export basis, covering general merchandise and commodities shipped from points in eastern Canada to Montreal, Quebec, St. John, New Brunswick, and Halifax, Nova Scotia, for export to Vancouver, Victoria and other British Columbia points, said traffic to be forwarded from Montreal, St. John and Halifax to Vancouver, &c., by the Elder, Dempster Company's steamships to Puerto, Mexico, thence by the Tehauntepec National Railway to Salina Cruz, Mexico, and thence by the Canadian Mexican Steamship line to destination. (File 13188.)

Order made dismissing the application without prejudices to the rights of any person interested to any relief the Board may deem proper on a different set of facts being presented to it.

2075. Application of the Montreal Terminal Railway Company under the Railway Act, for leave to appeal to the Supreme Court of Canada from the order of the Board, No. 9237, dated January 4, 1910, in connection with the application of the Montreal Light, Heat and Power Company, under section 246, for authority to erect, place and maintain its wires under the tracks of the Montreal Terminal Railway Company at the intersection of Laurier Avenue, Tetreauville, Quebec. (Application No. 12474.)

Application dismissed. The Montreal Terminal Railway Company have appealed to the Supreme Court on the question of the Board's jurisdiction to make an original order herein. For reasons for refusal of leave to appeal, see Appendix.

2076. Application of the Dominion Light, Heat and Power Company, under section 246, for leave to erect, place and maintain its light and power lines underneath the tracks of the Montreal Terminal Railway Company at the intersection of Aird avenue, Maisonneuve, province of Quebec. (Application No. 13150.)

Order made granting the application.

2077. Application of the Canadian Manufacturers' Association, under section 284, for an order directing all railway companies to reimburse shippers for any and all expenses to which they are subjected by reason of having to equip flat or other cars with stakes and fastenings so as to comply with the regulations provided for in order No. 7599 of the Board, dated July 24, 1909. (File 8799.1.)

Judgment reserved.

2078. Consideration of the question of protection of the level crossing of the Grand Trunk Railway Company of Canada at Main street, Ottawa East, Ontario. (File 9437.161.)

Order made providing for gates to be installed by the Grand Trunk Railway Company not later than June 1, 1910, and to be operated by a day and night watchman. The cost of installing to be borne and paid, 60 per cent by the railway company, 20 per cent by the city of Ottawa and 20 per cent out of the Grade Crossing Fund. The wages of the watchman to be paid, 80 per cent by the railway company and 20 per cent by the city of Ottawa.

2079. Consideration of the question of protection of the level crossing of the Grand Trunk Railway Company of Canada at Echo Drive, Ottawa, East, Ontario. (File 9437.160.)

Order made that the bridge tender at present employed by the railway company shall act as flag man at the said crossing. Order made. See above.

2080. Application of the National Transcontinental Railway, under sections 227 and 228, for an order to cross terminal tracks and spur tracks of the Winnipeg Transfer Railway; Thomas Black and Company, and Codville and Company, operated by the Canadian Northern Railway Company, Winnipeg, Manitoba. (Adjourned hearing.) (File 10786.)

Application dismissed. Leave to renew again granted.

2081. Consideration of the question of protection at the level crossing of the Grand Trunk Railway Company of Canada at Main street in the village of Carp, Ontario. (File 9437.163.)

1 GEORGE V., A. 1911

Order made that company install an electric bell by June 1, 1910. The cost of installation to be paid as follows: 20 per cent out of the Railway Grade Crossing Fund; the balance by the railway company. See order 9805, dated March 1.

2082. Consideration of the question of protection at the level crossing of the Grand Trunk Railway Company of Canada at Hugh street, in the town of Arnprior, Ontario. (File 9437.162.)

No order issued. The Board came to the conclusion that no protection was required at present at this crossing.

2083. Consideration of the question of protection at the level crossing of the Grand Trunk Railway Company of Canada at William street, Brockville, Ontario. (Adjourned hearing.) (File 9437.123.)

Judgment reserved.

2034. Application of the township of Ferris, under section 237, for an order directing the Canadian Pacific Railway Company to provide and construct a railway crossing where the company's railway intersects a proposed deviation of the original road allowance between concessions 10 and 11 upon lot 8, in the 11th concession of the said township. (File 12753.)

Application withdrawn.

2085. Complaint of Dr. J. S. Nelson, Westboro, Ontario, alleging excessive charges by the Bell Telephone Company. (File 13219.)

Judgment reserved.

2086. Application of the Canadian Pacific Railway Company, under section 237, for leave to construct their railway across certain highways in the township of Medonte, in the county of Simcoe, Ontario. (Adjourned hearing.) (Application No. 1793. Case No. 3226.)

Order made providing for the protection of various crossings with the exception of crossings between concessions 6 and 7, 2 and 3, in the said township of Medonte, which are to stand for further consideration by the Board. See order 9778, dated March 1, 1910.

2087. Application of the Advisory Committee of the Canadian Freight Association for approval of the proposed amended ratings of electrical goods, &c., included in the proposed Supplement No. 3 to Canadian Classification No. 14, the said proposed ratings of electrical goods, &c., having been adjourned from the sittings of January 18 ultimo. (File 9428.4.)

Judgment reserved.

2088. Application of P. C. Larkin and Company, of Toronto, for a lower rating in the Canadian Classification for 'packet' tea, boxed, than for 'bulk' tea, boxed. (File 13389.)

Application dismissed.

2089. Application of the Canadian Pacific and Grand Trunk Railway Companies, under section 29, for an order to amend order of the Board No. 6147, dated January 21, 1909, relating to the additional charge for holding western grain and grain products at Cartier and Sarnia tunnel, Ontario, 'For orders.' (File 8641.)

Order made rescinding former order and providing for a charge of \$1 per car.

2090. Complaint of the Plymouth Cordage Company, of Plymouth, Mass., and Welland, Ontario, that the freight rates of the railway companies on their shipments from Welland, Ontario, to Canadian points are unjustly discriminatory with respect to the rates on the same goods from Buffalo, N.Y., Auburn, N.Y., North Plymouth, Mass., Detroit, Michigan, and Chicago, Ill. (Application for hearing.) (File 9278. Case 4458.)

Judgment reserved.

2091. Application of the Western Associated Press, Winnipeg, for an order under section 323, and other sections of the Railway Act, directing the Canadian Pacific Railway Company's Telegraph and the Great Northwestern Telegraph Company of Canada to charge press rates for press matter, whether delivered to a news-

SESSIONAL PAPER No. 20c

paper or to the Western Associated Press, and further directing the Canadian Pacific Railway Company's Telegraph to carry telegraphic news services supplied by other news gathering agencies at the same rate charged by the said telegraph company.

NOTE.—The eastern publishers are required to show cause why the principle of the Board's judgment should not apply to eastern as well as to western points.

2092. Consideration of the question of protection at the crossing where the Grand Trunk Railway crosses, at grade, the public highways just east of the station at the village of Beachville, Ontario. (File 9437.147.)

Order made adding the county of Oxford as a party to the application. Hearing adjourned.

2093. Application of the municipal council of the town of Tilsonburg, under sections 59 and 237, and for an order directing the Michigan Central Railroad Company to protect with gates, watchman or otherwise the crossing at Tilson avenue. (File 9437.143.)

Order made providing for installation of gates within 60 days from date of order; 20 per cent of cost to be paid out of the Grade Crossing Fund and the remainder by the railway company. Expenses of operation to be paid, 10 per cent by the applicants, the remainder by the railway company. The gates to be operated between the hours of 7 a.m. and 7 p.m. See order No. 10055, dated March 22, 1910.

2094. Consideration of the question of protection of the crossing of the Grand Trunk Railway two and a half miles west of Acton West, Ontario. (File 9437.193.)

Judgment reserved.

2095. Consideration of the question of protection at Piercy Crossing, of the Grand Trunk Railway, three and a half miles north of Fergus, Ontario. (File 9437.183.)

Judgment reserved. Engineer to inspect location within one month and report.

2096. Application of the corporation of the county of Halton, Ontario, under sections 237 and 238, for an order directing the Grand Trunk Railway Company of Canada to provide and construct a suitable subway where the said railway crosses the allowance for road known as 'The Seventh Line' between the seventh and eighth concessions in the township of Esquesing, at or near lot 20 in said eighth concession. (Adjourned hearing.) (File 12425.)

Order made directing company to put approaches on both sides in condition by May 22, 1910.

2097. Consideration of the question of protection of the crossings of the Grand Trunk Railway Company at Port Credit, Ontario. (File 9437.178.)

Order made adding county of Peel and township of Toronto as parties. Hearing adjourned until their replies are filed.

2098. Application of Walter Harland Smith, under section 29, for an order to amend order of the Board No. 7706, *re* Grand Trunk Railway Company's Branch Line crossing the seventh line in the town of Oakville, Ontario. (File 11154.)

Order made rescinding order 7706. For reasons, see Appendix 'C.'

2099. Application of Walter Harland Smith, of the township of Trafalgar, under section 29, for an order to rescind order No. 8055 of the Board, *re* Grand Trunk Railway Company's spur west of the seventh line in the town of Oakville, Ontario. (File 11637.)

Order made rescinding order 8055. For reasons, see Appendix 'C.'

2100. Consideration of the question of protection at the level crossing of the Canadian Pacific Railway Company at Dundas Street, Lambton, Ontario. (File 9437.105.)

Order made relieving the railway company from further protection at the said crossing.

1 GEORGE V., A. 1911

2101. Complaint of T. Luckman, 93 Garth Street, Hamilton, regarding an alleged smoke nuisance in connection with the round house of the Toronto, Hamilton and Buffalo Railway at Garth Street, in the city of Hamilton. (File 6595. Case 3023.)

Complaint withdrawn.

2102. Application of the Grand Trunk Railway Company, under section 167, for approval of proposed deviation, change or alteration of a portion of the 14th District, Northern Division, of its railway, as already constructed, between a point on the northeast quarter of lot 21, in the 12th concession of the township of Vespra, in the county of Simcoe, province of Ontario, and a point on lot No. 5, east of Bradford Street, in the town of Barrie, in the said county of Simcoe, immediately north of its Allandale section. (File 13861.)

Referred to Board's Engineer to report.

2103. Application of the Grand Trunk Railway Company, under the Railway Act, for an order approving of the location of its semaphore wire, fences and works on the northern division of its railway between Old Yonge Street and Yonge Street near Holland Landing, in the county of York, and province of Ontario. (File 14031.)

Application refused. Board having no jurisdiction to decide ownership of land in question. Leave to renew upon notice granted.

2104. Application of the Niagara, St. Catharines and Toronto Railway Company, under section 227, for authority to cross with the lines and tracks of its Port Colborne extension, the lines and tracks of the Toronto, Hamilton and Buffalo Railway Company and of the Michigan Central Railroad Company, in the town of Welland, Ontario. (File 12391.)

Order made granting the application.

2105. Complaints of Messrs. McFarlane & Field, of Hamilton, Ontario, that the Grand Trunk and Canadian Pacific Railway Companies accepted prepayment on a carload of evaporated apples from Dundas, Ontario, to Winnipeg, Manitoba, via North Bay, Ontario, at a commodity rate for apples, but collected fifth-class, the contention being that the amount prepaid was justified by the commodity tariff itself. (File 13923.)

Stands to enable necessary correction to be made in the tariffs.

2106. Application of the Canadian Pacific Railway Company for a change of location of the interchange track between the Grand Trunk and Canadian Pacific Railway Companies at Galt, Ontario. (File 1380. Case 1731.)

Application stands to enable the Canadian Pacific Railway and Grand Trunk Railway Companies to submit by April 14, 1910, plans for new connection. Each party to submit an engineer's estimate of the cost connected with such work.

2107. Application of the town of Galt, Ontario, under sections 237, 238 and 242, for an order directing the Canadian Pacific and Grand Trunk Railway Companies to provide and construct a suitable new bridge across Mill creek on Kerr Street, and between the tracks of the said railway companies in the town of Galt, where such tracks cross said Kerr Street, and to maintain such bridges. (File 14052.)

Partially heard. Stands to enable the railway companies to answer the complaint.

2108. Complaint of Percy S. Seager, of Bickford, Ontario, that the Père Marquette Railroad Company has blocked his under-farm crossing, opposite north half of lot 6, township of Moore, county of Lambton, Ontario. (Adjourned hearing.) (File 11161.)

Complaint dismissed.

SESSIONAL PAPER No. 20c

2109. Consideration of the question of protection of crossings of the Grand Trunk Railway in the town of Strathroy, Ontario. (File 13157.) Judgment reserved.

2110. Complaint of the West Williams Rural Telephone Company that the Bell Telephone Company of Canada refuses to connect the complainant's telephone system with the system of the Bell Telephone Company at Parkhill, Ontario. (File 3574.3.)

Order made rescinding order 9782.

2111. Application of the Empire Refining Company, Limited, of Wallaceburg, Ontario, under section 284, for an order directing the Père Marquette Railroad Company, and the Chatham, Wallaceburg, and Lake Erie Railway Company to provide adequate and suitable tank car equipment to enable the complainants to properly transport their finished products from their works to local points in Canada. (File 14025.)

Judgment of the Board directing that the Père Marquette Railroad Company be required and directed to supply the Empire Refining Company, Limited, at its plant at Wallaceburg, with all the tank car equipment required by the said Refining Company in the operation of its refinery from time to time as the same may be required and ordered by the said Refining Company for shipment to points in Canada.

NOTE.—Before order was issued, the railway company made application for a rehearing, which application was granted and the matter is now standing for further disposition.

Order granted. See Appendix 'C' for judgment.

2112. Petition of the residents of and adjoining the village of Ruthven, Ontario, county of Essex, for an order directing the Windsor, Essex and Lake Shore Rapid Railway Company to provide suitable accommodation at Ruthven for passengers, freight and express matter transported by that railway. (File 12090.)

Judgment reserved until May 1, 1910, to enable the railway company to attend to the matters complained of.

2113. Complaint of the village of Thamesville, Ontario, regarding condition of crossings of the Grand Trunk Railway in that village. (File 9437. Case 4796.)

Order made for signal bell to be installed by July 4, 1910, at expense of railway company. Railway company at its own expense to divert the London Road.

2114. Crossing by the Michigan Central Railroad of the highway just west of Comber Station, county of Essex, Ontario. (File 9437.133.)

NOTE.—Board will take up the question of the cost of operating and maintaining the gates called for by order No. 9755, dated February 26, 1910.

Order made that crossing be protected by gates to be installed by railway company by May 1, 1910, and be operated between the hours of 7 a.m. and 7 p.m. daily. The cost of installation to be borne and paid, 20 per cent out of the Railway Grade Crossing Fund, the remainder by the railway company. The cost of operating and maintenance to be borne and paid 10 per cent by the township, the remainder by the railway company.

2115. Application under section 283 directing the Grand Trunk Railway Company to provide and construct a suitable farm crossing where this railway intersects farm lot 102, in the 1st concession of the township of Sandwich East, in the county of Essex, Ontario. (File 13227.)

Application dismissed with right reserved to renew it should it turn out that the applicant has no legal crossing joint with Mr. Labadie.

2116. Application of the Canada Southern Railway Company for approval of location of proposed station at Tecumseh road, shown on plan. (File No. 1961.1. File 11039.)

1 GEORGE V., A. 1911

Stands for such observations as the city of Windsor and the railway company desire to make on proposals contained in the judgment of the Chief Commissioner herein.

2117. Application of the Walkerville Grain Company, of Walkerville, Ontario, for ruling of the Board in regard to weighing of grain into cars and leakage in transit. (File 12272.)

Judgment reserved.

APPENDIX C.

Retail Coal Dealers' Association—Application re Weighing Coal.

The applicant association applied to the Board for an order directing that all railway companies weigh all coal carried by them received from foreign countries at the port of entry, and for other matters.

The facts are as stated in the judgment of the Assistant Chief Commissioner. Judgment Assistant Chief Commissioner Scott, April 5, 1909.

The applicant asks for an order directing:—

1. That all railways receiving coal direct from a shipper in Canada consigned to a point in Canada shall issue a bill of lading: (a) the number of the car; (b) the date of loading; (c) the weight of the car on the day of loading; and (d) the weight of coal; with a signed statement by the party weighing and loading the car that the car was weighed on the day named and that the weights are correct and as stated.

2. That all railways receiving coal from other railways shall require the delivering railway to deliver a bill of lading showing: (a) the number of the car; (b) the date of loading; (c) the weight of the car on the day of loading; and (d) the weight of coal; with a signed statement by the party weighing and loading the car that the car was weighed on the day named and that the weights are correct and as stated.

3. That all railway companies of Canada cause all coal carried by them received from foreign countries to be weighed at the port of entry by an independent weigher.

4. That all railways weighing cars at the port of entry shall weigh them individually uncoupled.

5. That all railways shall again weigh the car on the company's scales nearest the point on the route of destination.

6. That all railways shall weigh all cars so soon as unloaded, advising the consignee of the net weight of the said car.

7. That all railways shall collect freight only on the tonnage reaching the point of destination.

8. That all railways shall settle each month for all shortages in coal which shall take place between the port of entry and the point of destination, and for all overcharges in freight.

9. That a statement rendered by the consignee at the end of each month shall, if correct, be settled by payment before the end of the succeeding month.

10. That all railways put in such weigh scales as may be shown to be necessary for the proper conduct of their business.

Although the application covers a large number of points, the questions really at issue between the parties relate only to the weighing of coal by the Canadian railway companies; how often, and where the weighing should take place, and at whose expense. It has been clearly established that great discrepancy often exists between the weight given in the way bill of a car of imported coal and the actual weight of the coal delivered to the consignee.

Counsel for the applicant admitted that there was no complaint in the case of coal shipped from one point in Ontario to another point in Ontario. We need not, therefore, consider paragraph one of the application.

1 GEORGE V., A. 1911

An order on the lines of the second paragraph would be unworkable, as the Canadian railways would have no means of enforcing it, except refusing to carry the coal, in which case the cure might be worse than the ill.

Paragraph three, then is the first one to require serious consideration. The custom in the past has been for the Canadian railway and the consignee to accept the way bill of the American railroad as giving the correct weight, and no weighing of coal by the railway has been done in Canada. Even the Dominion government who receives something like \$4,000,000 per year in duty on coal accept the way bill of the American railway as the correct weight of the coal when computing the duty to be paid. But as I have said, there are many cases where the quantity of coal delivered to the consignee is materially less than that stated in the way bill. Just how the shortage occurs, and who is responsible for it, we are not called upon, and in any event are not in a position to state.

Is it fair and reasonable under these circumstances that the Canadian railway hauling the coal should be called upon to weigh it while in its possession to ascertain the true quantity for which freight may be charged? I think it is. The railway tariff is based on weight. The general custom of railways is to weigh merchandise received for transportation, to ascertain the amount of freight to be charged for carrying it. Why should not the weight of the commodity in question be accurately ascertained, so that the consignee will be asked to pay freight only on the quantity he receives?

The railway companies say, we usually accept the weight stated in the way bill of the connecting company. That is all very well as a general rule, but in this case it has been proven that the weight in such weight bills of lading is incorrect and cannot be relied upon when the coal is weighed after delivery. As the railway company, in fairness, should weigh the coal before or at the time of delivery, I think it should do it without cost to the dealer. My reason for coming to the conclusion that the railway should weigh the coal at its own expense is, that the true quantity upon which freight may be charged ought to be accurately ascertained. For this purpose, the weighing should properly take place at the point of delivery, or as near to it as possible; but it would be much more convenient to both the railway companies and the coal dealers to have the weighing at the points of entry into Canada where there are scales, and where, I understand the Customs Department will have inspectors. The weights will then be checked by an independent party. In this way, coal dealers and the Canadian railways will have positive information as to the true quantity of coal in each car at the time it was received from the American railroads. I, therefore, think that the Canadian railways should be required to weigh the coal free at the gateway for all such consignees as may demand the same. If the coal dealers wish the coal also weighed at the point of delivery, or the nearest point convenient thereto en route, they should be entitled to have it done; but it should be at their own expense.

We have not been supplied with much evidence on which to determine what would be a fair remuneration to the railway company for the service of switching and weighing at the point of destination. But, subject to a revision at a later date if found necessary, I would suggest that the railway company be given five (5) cents a ton for such service, with a minimum of one dollar (\$1) and a maximum of two dollars (\$2) per car; this charge to be made whether all cars are weighed or not.

The applicant asks that, in weighing, the cars should be uncoupled. The railway company say that, with the present style of coupler, the connection of the car to be weighed with the rest of train has no effect on the scales. We have not had sufficient evidence on this point to enable me to come to a definite conclusion, but, I think that as uncoupling would cause considerable inconvenience and delay, we should not for the present at any rate, require the uncoupling of cars for weighing.

SESSIONAL PAPER No. 20c

The applicant also asks that all empty cars should be weighed as soon as unloaded. Empty coal cars are weighed periodically by the company that owns them and the tare or weight is marked on each car. If the dealer has reason to believe the weight of the car, as marked on it, is incorrect, then he should have the right to have it weighed; but unless it is more than five hundred pounds heavier than the tare indicates, he should pay the railway company for switching and weighing it. All allowance to the railway company for such service in such cases, of two dollars (\$2) per car to be made.

The seventh clause of the application: 'That all railways shall collect freight only on the tonnage reaching the point of destination,' should of course be granted.

The eighth and ninth clause respect matters of accounts between the railway companies and the dealers which, if they cannot be settled between the parties, can be determined by the courts of law of the province.

The tenth clause asks that proper facilities be provided by the railway companies for weighing coal. This is required under the Railway Act. If, in any individual case it is established to the satisfaction of the Board that reasonable and proper facilities are not provided by any railway company, the Board would, of course, order the company to supply them.

The complaints which we have had before us are all from dealers or consumers in the province of Ontario. It may be assumed, therefore, that conditions in the other provinces with regard to the questions under consideration are satisfactory to those interested in the coal trade. I, therefore, suggest that the order as settled be confined to the province of Ontario.

Since preparing my judgment in this matter, dated April 5, we have had the advantage of hearing further argument from the parties interested, and I have now prepared the attached draft order which substantially expresses my views.

As the weighing of coal will be somewhat of an experiment, I think the parties should be free to come back to us for a modification or recision of the order within a reasonable time. I have, therefore, put in a clause giving them the right to apply to the Board after the expiration of a year, should they so desire.

Order No. 8982.

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

Monday, the 22nd day of November, A.D. 1909.

Hon. J. P. MABEE, *Chief Commissioner.*

D'ARCY SCOTT, *Assistant Chief Commissioner.*

JAMES MILLS, *Commissioner.*

In the matter of the application of the Retail Coal Dealers' Association for an order that all railway companies weigh all coal carried by them received from foreign countries at the port of entry, and for other matters.

File 6026-3625.

Upon the hearing of evidence and counsel for the applicant and the railway companies—

It is ordered as follows:—

1. In the event of the consignee of any car or cars of bituminous coal shipped from the United States for final delivery at a point in Ontario, desiring to have such car or cars weighed at the port of entry, he shall be at liberty to give a written notice to the local agent of the railway company receiving such car or cars at such port of entry for delivery or furtherance, that he wishes to have any or all the cars weighed, such notice to be given before the coal is received by such railway companies; and upon the receipt of such notice, it shall be the duty of the company to weigh, free of charge, at such port of entry, all cars covered by the notice.

1 GEORGE V., A. 1911

2. Any consignee may give a general or continuing written notice that he wishes to have all such cars consigned to him weighed as above provided.

3. For the purposes of such weighing at the port of entry, the cars to be weighed may remain coupled one to another in a train.

4. The weighing of coal at the port of entry, under the provisions of this order, shall be under supervision and control of a Government weigh-master, to be appointed or named by the Minister of Customs, whose duty it shall be to prepare in triplicate a certificate of the weight of the coal in each car weighed.

5. The government weigh-master shall deliver one of the originals of such certificate to the railway company, if desired; attach another to the weigh-bill, or send it by mail to the consignee; and preserve the third in his possession for further reference if required.

6. In case of dispute between the railway company and the consignee as to the weight of coal in cars weighed as hereinbefore provided, the certificate of the weight of such coal by the government weigh-master shall be binding upon the railway company.

It shall be the duty of the local agent of the railway company at such port of entry to notify the government weigh-master of the probable hour of arrival from day to day of all cars of coal required to be weighed, in sufficient time to enable the said weigh-master to supervise and control the weighing of such coal without unduly delaying the said cars in transit.

8. If the railway company has established weigh scales at the point of destination of such coal, the company shall there weigh such car or cars as may be specified in a written notice delivered by the consignee to the agent of the railway company at such point of destination, within twenty-four hours after the arrival of the coal.

9. If the railway company has not established weigh scales at the point of destination of such coal, the company shall, at the weigh scale point nearest to such point of destination in the direct route, weigh such car or cars as may be specified in a written notice delivered by the consignee to the agent of the railway company at such point of destination, a reasonable time before such car or cars shall have reached the said weigh scale point.

10. For the services required to be performed by the railway company under clauses 8 and 9 hereof, the railway company may charge and collect from the consignee five cents for every ton of coal in the car, with a minimum of one dollar and a maximum of two dollars per carload; but no charge shall be made and no amount collected for such service, if the weight of the coal be more than 500 pounds less than the weight of the coal at the port of entry, or if the coal not having been weighed at the port of entry, the weight be more than 500 pounds less than the weight shown by the weigh-bill to be in the car at the time of shipment, plus the weight of the car itself as shown by the tare.

11. On notice in writing that he wishes to have the empty car weighed being given by the consignee of any such coal to the agent at the point of destination of the railway company hauling the same to such point (if a weigh scale point) within five hours from the unloading of any car containing such coal the company shall weigh the car at such point, and for such service may charge and collect from the consignee one dollar per car; but no such charge shall be made and no amount be collected for such service if the actual weight of the car exceeds the tare marked on it by more than 500 pounds.

12. This order shall apply only to ports of entry and points of delivery in the province of Ontario.

13. Any person or company affected by this order may, after one year from the date hereof, apply to the Board to vary or rescind it.

SESSIONAL PAPER No. 20c

And it is further ordered that the order of the Board No. 7261, dated May 31, 1909, be, and it is hereby rescinded.

(Signed.) J. P. MABEE,
Chief Commissioner,
Board of Railway Commissioners for Canada.

McDiarmid & Gall v. Grand Trunk and Canadian Pacific Railway Companies.

The applicants applied to the Board to extend the free time for unloading charcoal from two to three days.

The facts of the case are fully set out in the judgment of the Chief Commissioner.

Judgment, Chief Commissioner Mabee, April 15, 1909.

The car service rules provide for two days (48 hours) for the unloading of charcoal, and the applicants ask that this free time be extended to three days (72 hours). They receive shipments at Mile End and at Ogilvie's siding, the latter in the west end of Montreal; and from statements filed covering a certain period ending October 31, last, they had received at Mile End 120 cars, upon 83 of which they had been compelled to pay demurrage; and at the west end siding 82 cars, upon 53 of which they had paid demurrage; so it would seem that for some reason demurrage is paid upon a large percentage of cars.

It was contended for the railway companies that the cause of the delay was that the applicants bagged the charcoal in the cars and delivered it direct to their customers, thus making use of the car as a store house while delivery was being made to the customers. This custom does not obtain at the Mile End delivery point; the applicants have a warehouse there, and they say they have never made any delivery to customers from the cars at that point, yet about 60 per cent of the cars unloaded there carry demurrage charges.

These rules covering free time were only adopted after full and careful consideration, and I do not think they should be broken in upon unless a case for so doing is clearly established.

It was contended by the applicants that the same free time should be given for charcoal as for coal or coke, but I think the difference in the commodities, the mode of hauling, weight, &c., justifies the difference in time.

The burden of showing the two-day limit to be unreasonable is upon the applicants; there are a number of other dealers in charcoal in Montreal and elsewhere and no complaints have been made by them of the present free time limit. The companies showed the length of time required by at least one other dealer in Montreal to unload, from which it would appear that the present limit was sufficient.

One of the reasons given by Mr. McDiarmid for desiring longer time was, 'if there is a wet day or part of a wet day,' it caused demurrage liability. This is covered by rule 6 which calls for additional time allowance if the weather is wet or inclement, or other local conditions render unloading impracticable during business hours.

It is not entirely clear that some additional time might not have been given upon this commodity when these rules were being formed; but as the onus of establishing the unreasonableness of the two-day limit is upon the applicants, and there has been no general complaint, I think the application fails. Concurred in by the Assistant and Deputy Chief Commissioners.

The Attorney General of the Province of British Columbia v. The Canadian Pacific Railway Company.

This was an application made by His Majesty's Attorney General of the province of British Columbia for an order placing the province of British Columbia

1 GEORGE V., A. 1911

upon the same favourable condition in respect to tolls for freight and passenger traffic over the Canadian Pacific Railway through British Columbia, as are other portions of the Dominion of Canada over the main line of that railway; that the existing freight and passenger tolls over the railway be reduced; and that the railway company be restrained from charging other or higher rates within the province of British Columbia than it charges in other parts of Canada.

The formal complaint and answer were filed with the Board after the case was argued. The hearing took place at Victoria on March 1, 1909. The following is a resolution of the Legislative Assembly of the province of British Columbia a copy of which had been forwarded to the Board by the clerk of the Executive Council:

Whereas by Section 11 of the Terms of Union, the Government of the Dominion undertook to secure the construction of a line of railway to connect the seaboard of British Columbia with the railway system of Canada;

And whereas large areas of public lands belonging to the province of British Columbia have been conveyed to the Dominion Government in furtherance of the said railway;

And Whereas the benefits to be derived from the construction of the said railway was one of the inducements which led to the union of British Columbia with the other provinces of Canada, as well as for the conveyance to the Dominion Government of the public land of the province as aforesaid;

And whereas the railway above referred to is national in its character, and as such has received a very large measure of assistance of public moneys and lands;

And whereas it was not contemplated at the time of the union of British Columbia with the other provinces of Canada that there should be any discrimination in freight and passenger rates between one locality and other localities, or between one province and any other province;

And whereas numerous complaints have from time to time been made by various boards of trade in British Columbia to the effect that existing freight rates discriminate against cities in British Columbia;

And whereas the Board of Railway Commissioners have ordered a reduction in passenger rates to three cents per mile upon all railways between Calgary and the Atlantic;

And whereas the passenger rates charged upon railways in British Columbia are in excess of three cents per mile;

And whereas such excess is a discrimination detrimental to the best interests of British Columbia, as it tends to prevent development and the influx of population:

Therefore, be it resolved that an humble address be presented to His Honour the Lieutenant Governor, praying that he will cause a full representation of the facts to be made to the government of the Dominion and to the Board of Railway Commissioners, to the end that British Columbia may be placed in as favourable condition in respect to freight and passenger rates as are other portions of the Dominion.

In addition to the matters covered by the resolution, the formal complaint alleges (paragraph 10) that the Canadian Pacific Railway Company, by their contract with the Dominion government, agreed to construct the railway through British Columbia according to the standard of the Union Pacific Railway when it was first constructed (the grade of which latter railway did not exceed 2 per cent), and also agreed forever to efficiently maintain and operate the railway, and that it was in consideration of the due performance of this contract that the lands were granted and the subsidies given (paragraph 11); that the railway was not constructed according to the said standard, and the grades through the mountains far exceed 2 per cent (paragraph 12); that the passenger rate in British Columbia is 4 cents per mile

SESSIONAL PAPER No. 20c

(paragraph 13); that the tolls charged unjustly discriminate against British Columbia (paragraph 14); and that the spirit of the Canadian Pacific Railway Company's Act is not being carried out.

At the hearing, no evidence was given by the applicant, but the history of the construction of the Canadian Pacific Railway, the various statutes and contracts bearing upon the same, the governmental aid in land and money, and other matters, were fully discussed, and counsel for the applicant put his claim for relief upon the ground that these statutes and agreements bound the company to charge no higher tolls in one section of territory than in another, through which the line that was the subject of the contract ran; in other words, that the company's tolls could not vary as the circumstances and conditions changed.

Judgment, Chief Commissioner Mabee, April 15, 1909:—

I have gone over the argument since the notes of hearing were transcribed, and have read all the enactments cited, and I am clearly of opinion that the contention of the applicant, in the broad way advanced, is not well founded. It matters not, for the purposes of considering this case, what the land and money grants to the company were; the extent or character of the government aid does not affect the contract that was arrived at, nor am I able to see how the position is in any way affected by the fact that the government of British Columbia conveyed large areas of provincial lands to the government of the Dominion of Canada. The questions are: what was the contract between the government of Canada and the railway company? And what was the general railway law at the time?

The agreement relating to the construction of the railway will be found as a schedule to 44 Vic., chapter 1, and only a few of its provisions bear upon this matter. Paragraph 22 provides that the Railway Act of 1879, so far as applicable and not inconsistent with the company's Act of incorporation (schedule 'A' to the contract), should apply to the Canadian Pacific Railway Company. The 17th section of the Railway Act of 1879 dealt with the tolls chargeable, and the 11th subsection empowered the Parliament of Canada to reduce from time to time the tolls upon any railway, but not without the consent of the company or so as to produce less than 15 per cent per annum on the capital actually expended in its construction; nor unless on an examination by the Minister of Public Works of the amount received and expended by the company, the net income from all sources, for the year then last past, is found to have exceeded 15 per cent upon the capital actually expended.

Section 20 of the company's Act of incorporation provides that the limit to the reduction of tolls by Parliament, as provided in section 17 above referred to, shall be extended so that such reduction may be to such an extent that such tolls, when reduced, shall not produce less than 10 per cent profit on the capital actually expended in the construction of the railway, instead of 15 per cent profit. So far as appears, the above sections are the only ones in either the general Act or the special Act bearing upon the question of tolls; so both upon the company's contract with the government of Canada and its special Act, it was under the general Railway Act of 1879 upon the question of tolls, except as above indicated.

The present law bearing upon this part of the complaint will be found in section 315 of the Railway Act, which provides that all tolls shall always, *under substantially similar circumstances and conditions*, in respect to all traffic of the same description, and carried in or upon the like kind of cars, passing over the same portion of the line of railway, be charged equally to all persons, and at the same rate; and no toll shall be charged which unjustly discriminates between different localities.

It has been recognized by the Board since its establishment that the equality of tolls was required only where the circumstances and conditions were substantially similar.

The Railway Act of 1879 contained the following provision (section 17, subsection 6):—

1 GEORGE V., A. 1911

All or any of the tolls may, by any by-law, be reduced and again raised as often as deemed necessary for the interests of the undertaking; *but the same tolls shall be payable at the same time and under the same circumstances upon all goods and by all persons*, so that no undue advantage, privilege, or monopoly may be afforded to any person or class of persons by any by-laws relating to tolls.

Nothing appears in the contract requiring the company to establish and maintain, over the whole main line of the railway when completed, the same or similar tolls, under different circumstances; and so far as I can see the company was bound, under the above clause, to charge the same or similar tolls, at the same time and under the same circumstances only.

No clause appears in the Act of 1879 in express terms prohibiting unjust discrimination between different localities. I presume, however, a strict reading of the above subsection would work the same result, so long as the circumstances were the same. It seems to me the company was at liberty, when the road was put into operation, to make distinctions in its tolls in different localities, where different circumstances existed that would justify such difference of treatment. The Railway Act as it now stands gives it and all other companies that privilege. This view of the law is adopted in *the case of the British Columbia Coast Cities vs. the Canadian Pacific Railway Company*, 7 C.R.C. 125, where the rates in British Columbia were attacked upon the ground of discrimination. The late Chief Commissioner in that case said:—

It appears to me that no inference can be drawn from a mere comparison of distances upon different portions of railways, and that it does not constitute discrimination—much less unjust discrimination—for a railway company to charge higher rates for shorter distances over a line having small business, or expensive in construction, maintenance or operation, than over a line having larger business or comparatively inexpensive in construction, maintenance or operation. In my opinion, a party raising such a complaint upon a mere comparison of distances, should show the nature of the particular lines referred to, and that there is a material disproportion of rates as against the shorter line, after due allowance is made for the circumstances just mentioned.

With this I fully agree, and applying this doctrine to this case, the complainants would be required to establish that the rates in the province of British Columbia, having regard to the nature of the lines there, the volume of business, cost of construction, maintenance, and operation, and other material matters, were out of joint with the rates over the company's lines in the provinces to the east. No evidence upon these heads was offered, and the whole case was put as one of contract. I am unable to find any such contract, express or implied, and so far as this branch of the contention is concerned, I think it fails.

The argument, as put at the hearing, summarized, was the following:—

That being a railway of national concern, having received large subsidies from the Dominion government, the Dominion government having received large subsidies from the province, it was the spirit and intention of all the parties when that Act was passed, and when the railway was authorized to be built, that no higher rates should be charged through British Columbia than over any other part of the main line of the Canadian Pacific Railway.

To ascertain the spirit and intention of the parties one can only look at the contract and the Acts bearing upon the matter; and, as stated, I am not able from these to find that the company prevented itself from increasing its tolls in localities where the circumstances justified it, and as permitted by the Railway Act of 1879.

It is alleged that it was not contemplated, at the time British Columbia came into confederation, that there should be any discrimination in freight and passenger rates between one province and another. The answer to this is that if there is undue or unjust discrimination, it is illegal, and if proved will be dealt with as a violation of

SESSIONAL PAPER No. 20c

the law; but this cannot be inferred; it is a matter of evidence having regard to different conditions and other matters above dealt with.

It was argued for the applicants that the company had violated its contract with the Government of Canada, dated October 21, 1880, in that the road was not constructed up to the standard called for; that to save mileage it was located where heavy grades were necessary and expense of maintenance increased; and that the company should not be permitted to advance these as grounds for difference in rates, if this position was caused by reason of their not fulfilling their contract.

It was objected for the company that the applicants could not be heard to complain of any alleged breach, as the contract had not been made with the government of British Columbia. Apart from whether such a contention is open to the applicants, as to which there is the gravest doubt, and apart also from any evidence that the contract was not fulfilled, and of which there was none, it appears that, by an agreement dated in November, 1886, and approved by order in council of November 2, 1886, made between the Department of Railways and Canals and the Canadian Pacific Railway Company, it is expressly stated that the road had been constructed and equipped of a quality and character equivalent upon the whole to the approximate standard agreed upon, namely, the Union Pacific Railway, as accepted by the government of the United States, the railway being in many respects of superior quality and character to the approximate standard, and only in some degree inferior in respect of the gradients of a portion of the line in British Columbia, nine miles in length, passing Mount Stephen. The company covenanted in this document that it would, upon being so required by the government, make such alteration and improvement in the nine miles as should be prescribed by the government, not being in excess of the requirements of the government engineer, as shown by the plans and specifications prepared by the company, and \$1,000,000, land grant bonds, were deposited with the government to be held as security for the performance of this covenant, and to be used in such performance, if the company makes default therein.

It appears perfectly clear that, in view of all this, the only party that could make any complaint would be the government of Canada, and in any event I am unable to understand how the matter has anything to do with the question of the freight and passenger rates in British Columbia.

Upon the case as it stands it is impossible to afford any relief to the applicants. Request was made that the Board should cause an inquiry and have an account taken to ascertain if the earnings of the railway were such that the Board could reduce the rates, in view of the section 20 above mentioned. This inquiry is not necessary, as the company admits that its rates are subject to reduction or adjustment by the Board, if a proper case is made out—jurisdiction was admitted in the coast cities case above cited and in several others.

If the applicant desires to give evidence for the purpose of establishing that, in view of all the circumstances, the rates now charged in British Columbia are unreasonably high, or that undue discrimination exists, leave for such purpose should be granted, otherwise, upon the record as it stands, the application fails.

Stockton and Hallinson v. Canadian Pacific Railway Company—Fruit rates.

Complainants alleged that the rates charged by the respondent company on shipments of citrus fruit from points in California, United States, to Regina were unreasonable as compared with the rates charged from the said points to Winnipeg and other points in Manitoba and Ontario.

Judgment, Mr. Commissioner McLean, April 26, 1909. The applicants are fruit and produce merchants in the city of Regina. The present rate from Los Angeles to Regina is \$1.70 per 100 pounds on citrus fruits of all kinds. This fruit is routed

1 GEORGE V., A. 1911

over the Southern Pacific or Santa Fe, the Oregon Railway and Navigation Company, and Spokane International, to Kingsgate, British Columbia, and then by the Canadian Pacific to destination. The rate is made up as follows:—

Los Angeles to Portland, Oregon..	53 cents.
Portland, Oregon, to Kingsgate, B.C..	57 cents.
Canadian Pacific..	60 cents.
	—
	\$1.70

The rates in United States territory are full locals, while the Canadian Pacific rate is a proportional one. On shipments from Riverside and Redlands, the rates are respectively 2½ cents and 5 cents higher. Regina has the same rate as Moosejaw.

The rate on oranges in straight carloads to Winnipeg, a longer distance point, is \$1.25 per 100 pounds. The same rates apply on oranges and lemons in mixed carloads. On straight carloads of lemons, the rate is \$1.10. These rates have been in force since November, 1907. On shipments to Winnipeg the competition of railways in the United States has to be met. As a result of competition, compromise and consideration of the best methods of meeting the demand for citrus fruits in the large markets of the United States the practice has developed of making blanket rates of \$1.15 on oranges and \$1.00 on lemons, both in straight carloads, to points in the United States east of the Missouri and Mississippi river gateways. This applies to Detroit, Buffalo, New York, Boston and common points. This also affects points in Canada. Toronto, for instance, having the advantage of the Buffalo rate.

It is apparent that whatever rate is fixed by the competition of railways and of markets to points in United States territory south of Winnipeg must be recognized by the Canadian Pacific in making rates to that point. It is contended by the applicants, that the same rates should apply to Regina via Kingsgate, as apply to Winnipeg via its connection through Emerson with the United States transcontinental lines. Winnipeg, Portage la Prairie, and Brandon, are terminal points in the territory known, under the transcontinental freight tariffs, as Missouri River common points. The Winnipeg rate is 10c. higher than to Missouri River common points. The reason for this, that the connecting lines south of Minnesota transfer (St. Paul) will not so reduce their portions of the total rate as to give the northern lines what they consider a fair return of the rate if the rate of \$1.15 is charged. Out of the total rate of \$1.25 on oranges to Winnipeg the lines north of Minnesota transfer to the international boundary receive 38.8c. per hundred pounds, while the lines north of the boundary receive 12½c. per hundred.

In November, 1906, the new route via Kingsgate was opened. During the first season of operation of this route, the Canadian Pacific made the same rate to Winnipeg via Kingsgate as via Emmerson. On account of the inadequate revenue obtained from this experiment in meeting a competitive rate, the small amount of tonnage moved by it, and the difficulties in the way of prompt delivery on account of climatic conditions, the rate was cancelled at the end of the season.

It is apparent that different factors enter into the rate situation at Winnipeg and the territory adjacent thereto, from these existing at Regina. The large volume of citrus fruits moving over the United States lines, and the large market to which this line of product caters in the United States has developed a low rate basis which gives Winnipeg a rate advantage over Regina; but the circumstances are so dissimilar that the advantage is not an undue one. The further fact that the Canadian Pacific no longer quotes the compelled Winnipeg rate over its route from Kingsgate, relieves it from a charge of violating the long and short haul clause by charging higher rates to intermediate points.

The Regina rate complaint must be considered not from the standpoint of discrimination, but of reasonableness.

SESSIONAL PAPER No. 20c

Before the opening of the route via Kingsgate, the orange rate to Regina based on Winnipeg, was \$1.72 per 100 pounds. The rate via Winnipeg is still operative. With the opening of the Kingsgate route the rate was reduced to \$1.60. This rate was in force from June 5, 1907, until February 10, 1908. It is alleged that this was changed to the present basis, because it was out of proportion with the Calgary rate of \$1.65.

It is a well-established principle that when a lower rate—which has been in force for some time—is replaced by a higher rate, the former lower rate is *prima facie* a profitable and reasonable one. It is, of course, open to the railway to adduce evidence to show that the former rate was an unprofitable one, and such evidence should be most carefully considered. But in the application before us, no such evidence has been adduced to show that the rate of \$1.60 was unprofitable.

In addition to this, Mr. Peters, then assistant freight traffic manager of the Canadian Pacific Railway, made the affirmative statement, under date of January 20, 1908, when an earlier application in this matter was before us, that the rate of \$1.60 was fair and reasonable. I see no reason why any departure should be made from this position now. At present the rate to Regina, via the Emerson gateway, is \$1.72, which is made up of the \$1.25 rate plus the 3rd class rate of 63 cents, Winnipeg to Regina, less the Winnipeg cartage, which is not performed. On the citrus tonnage moving via Kingsgate to Regina the Canadian Pacific is at present receiving 182 cents per ton per mile. The route from Kingsgate to Regina presents more difficult features from an operating standpoint, than that from Winnipeg to Regina. If then, the citrus fruits are routed to Regina via Winnipeg, it would appear fair to apply a rate on the Winnipeg to Regina haul not exceeding that earned per ton per mile on the Kingsgate-Regina haul, and making the rate via Winnipeg \$1.60.

The rate on lemons, which is also involved in the complaint, should be lined up with the rate practice, whereby lemons in straight carloads are given a lower rate than oranges.

I am of opinion, that the Canadian Pacific Railway should be required to arrange with its connections for the publication of new tariffs on the basis of \$1.60 per 100 pounds from Los Angeles points to Regina, via Kingsgate or Emerson, or oranges in straight carloads, or on mixed carloads of oranges and lemons, as well as a rate of \$1.45 on lemons in straight carloads.

The Chief Commissioner concurred.

Kerr v. Canadian Pacific Railway Company.

The complainant complained to the Board that the rate on grain, grain products and vegetables for local consumption from Franklin to Winnipeg was unjustly discriminatory as compared with the rate from the same point to Fort William, a much farther distance, on the same goods for eastern markets.

Judgment, Commissioner McLean, May 10, 1909:—

Franklin is a station on the Canadian Pacific Railway, 126 miles from Winnipeg. The rate from Franklin to Winnipeg, under the company's special mileage tariff on grain, grain products and vegetables, is thirteen cents per hundred pounds; this is also the eighth-class rate in the Canadian classification. It is contended that this rate is discriminatory since the rate on grain and grain products from Franklin to Fort William, a distance of 550 miles, for furtherance east is likewise thirteen cents. It cannot be urged that this constitutes a discrimination against the applicant. The rate to Fort William is a division of a through rate concerned with through shipment to an eastern market. Where grain and grain products move to Fort William for local consumption they move on the company's special mileage tariff and take a rate of 29 cents. The through rate of which the 13 cents form a part is affected not only by the competition of other grain-growing territories; it was

1 GEORGE V., A. 1911

also reduced by the provisions of the Crowsnest agreement. The conditions affecting the through shipments handled on this through rate are such that a division of such a through rate cannot be taken as the measure of the reasonableness of a local rate from Franklin to Winnipeg. The complaint should, therefore, be dismissed.

The Chief Commissioner concurred.

Plain & Company v. The Canadian Pacific Railway Company.

The complaint was made to the Board under section 315 (subsection 5) of the Railway Act that the rates on shipment of apples from Picton to Smiths Falls was excessive as compared with the rate from Picton to Ottawa; Smiths Falls being an intermediate point located on the Rideau canal, and the distance from Picton to Smiths Falls being shorter than the distance from Picton to Ottawa.

Judgment, Mr. Commissioner McLean, May 10, 1909:—

The rate charged by the Canadian Pacific Railway from Picton to Ottawa is 17 cents per hundred pounds, while the rate from Picton to Smiths Falls, an intermediate point located on the Rideau canal, is 23 cents. It is alleged that the latter rate is excessive.

The traffic moving to Ottawa is subjected to effective water competition, both by the Rideau canal and by the Ottawa river via Montreal. The rate to Ottawa is a compelled rate based on water competition. It is the privilege of a railway, in its own interests, to meet water competition. It is not, however, the privilege of a shipper to demand less than normal rates because of such competition which the railway does not, in its own interest, choose to meet. *Lindsay Brothers v. Baltimore & Ohio Southwestern Railway Company, et al*, 16 I.C.C. Rep. 6. Opinion No. 872.

Where a railway chooses to meet water competition it is to be presumed, unless the contrary is established, that it does so because there is effective competition in regard to traffic important in amount. It is established in evidence that such a condition does not exist at Smiths Falls. The compelled rate to Ottawa cannot then be taken as the measure of the reasonableness of the shorter distance rate to Smiths Falls, and the complaint should therefore be dismissed.

The Chief and Assistant Chief Commissioners concurred.

Times Publishing Company v. Canadian Pacific Railway Company, Great North-Western and Western Union Telegraph Companies.

The applicants applied to the Board for an order directing the above telegraph companies to transmit press messages from Ottawa to the Marconi Wireless Station at Glace Bay at the same rate as to the other points along the Atlantic coast of Canada.

Judgment, Chief Commissioner Mabee, May 19, 1909:—In the case, that was heard yesterday, of the Times Publishing Company against the three telegraph companies mentioned in the complaint, we have come to the conclusion that there is not sufficient information before the Board upon which we would be justified in granting the order that is asked for by the applicants.

They desire an order that the Canadian Pacific Telegraph Company, the Great Northwestern Telegraph Company and the Western Union Telegraph Company transmit press messages to the Marconi wireless station at Glace Bay at the same rate as is charged to other points along the Atlantic coast of Canada. They allege that while the usual rate on press messages from Ottawa to Canadian Atlantic coast points is 35 cents per 100 words at night and 50 cents per 100 words by day, the telegraph companies charge private message rate on all press messages to Glace Bay intended for transmission by Marconi wireless, and that these charges are excessive and discriminatory.

Now, it appears from what took place in the discussion yesterday that there is in fact, as between the cable companies on the one hand and the Marconi system on

SESSIONAL PAPER No. 20c

the other no discrimination by the telegraph companies in favour of the former or against the latter. On the other hand it seems that under the existing rates as charged, the sender of a message via Glace Bay over the Marconi system, as a matter of fact pays some twenty or thirty cents less to the land line for delivering at Glace Bay to the Marconi system, than the same sender would be required to pay to the cable company, as the share that the cable company under its existing contract with the land line would pay to the land line for the delivery of a message of the like number of words to the cable company at the coast. So that, instead of the existing charges being discriminatory, and in favour of the cable companies as against the Marconi system, the facts are otherwise.

It is not necessary at the present moment to deal with the larger question that was discussed by counsel as to the system now in operation being alleged to be discriminatory in favour of the American press as against the press of Great Britain or the Trans-atlantic press.

Counsel who appeared in the case suggested that this latter matter should stand over until the larger questions of telegraph communication generally, and the rates as applicable thereto were considered by the Board, and in view of there being no sufficient information before us to deal intelligently with this application now, we think that is perhaps the better disposition to make of that matter in the meantime.

The attempt here is really to extend the existing system which was voluntarily established by the telegraph companies as to press rates. They have an extremely low rate apparently throughout Canada, and with their connecting lines throughout the United States for press purposes. These rates are applicable, or intended to be applicable in so far as Canada is concerned, to that class of business that is addressed to newspapers, for publication in the various towns and cities and villages in the Dominion. There is a press rate to Glace Bay. It is said there is a newspaper there, and so I presume that from other parts of Canada the press rates would apply to the publisher of that newspaper at Glace Bay. The attempt here is to have the Board extend, against the will of the telegraph companies, this system of reduced rates for press purposes, in this particular instance, to the *London Times* published in London, England. Now, we have no information whatever as to the reasons that moved the telegraph companies to establish these low press rates. We have no information whatever as to the profit of the telegraph companies, as to whether these rates are fairly remunerative or not, and we have no information as to the volume of business of that class. All this information would be necessary to enable the Board to say whether or not it was a fair thing to require the telegraph companies to give to newspapers published on the other side of the Atlantic, rates upon a like basis. It was said that press rates could not apply reasonably to cable messages by reason of their being so condensed and so on, and that there was, in some instances, greater expense imposed upon the telegraph companies by reason of their being required to have operators in the cable offices. All these matters would have to be inquired into carefully before we could deal intelligently with the case, and say whether or not Trans-atlantic press rates should be upon the same basis as domestic press rates. This may be a matter that will be developed when the telegraph rates are looked into as they probably will have to be before very long. All that I have said is, of course, quite apart from the question of jurisdiction that counsel raised, as to which in the meantime it will not be necessary for us to say anything. That feature of it may be deferred for consideration when the balance of the complaint is more fully developed, so that we can dispose of it in a manner that we are unable to at present.

British-American Oil Company v. Grand Trunk Railway Company of Canada.

Re PETROLEUM OIL TRAFFIC.

The oil company complained that the Grand Trunk Railway Company unjustly discriminated against crude oil shipments from Stoy, Ill., to Toronto, by refusing to

1 GEORGE V., A. 1911

carry it at the published and filed joint tariff fifth class rate, in accordance with the official classification and at the same rate as animal and vegetable oils, in carloads; also that since October 18, 1907, the railway company had refused to deliver to the complainant company at Toronto cars containing crude oil ex-Stoy, Ill., except on payment of an additional rate of 12½ cents per 100 pounds, which additional rate was paid under protest and which the company refused to refund; and that all such consignments from September 7, 1907, when the complainant began shipping crude oil from Stoy, and before October 18 aforesaid, the company collected the published fifth-class rate, but has since demanded the additional payment of 12½ cents per 100 pounds on these cars also, which the complainant refuses to pay.

The complainant company contended that the railway company had acted in violation of the order of the Board of July 6, 1907, in connection with international rates, which provided 'that in the adjustment of the international rates referred to, the refunds on raw materials from points in the United States to points in Canada shall not be advanced at the expense, direct or indirect, of the companies operating in Canada, by reason of the changes in the rate bases herein permitted or prescribed.'

Judgment Chief Commissioner Mabey, May 19, 1909:—

All railway companies are compelled to furnish to other companies and persons reasonable and proper facilities for forwarding, interchanging, and delivering traffic, and the law declares that such facilities shall, at the request of any other company, or of any person interested in through traffic, the receiving, forwarding, and delivering of through traffic, in the case of goods shipped by carload, of the car with the goods therein, at a *through rate*. (Section 317.)

Where traffic is carried from any point in the United States to any point in Canada, by any continuous route, owned or operated by any two or more companies, whether Canadian or foreign, a *joint tariff* for such continuous route shall be duly filed with the Board (section 336). When such a joint tariff is filed, the companies affected must charge the tolls specified therein, until it is *superseded* or *disallowed* by the Board, and the Board may require to be informed by the company of the proportion of the toll or tolls in any joint tariff filed, which it or any other company, whether Canadian or foreign, is to receive or has received (section 338).

When traffic passes over any continuous route in *Canada*, operated by two or more companies, the several companies may agree upon a joint tariff for such continuous route, the initial company being required to file it with the Board, and the other company or companies must promptly notify the Board of its or their assent and concurrence in such joint tariff, and if the companies are unable to agree upon such tariff, the Board, upon the application of any company or person desiring to forward traffic over such continuous route, which the Board considers a reasonable and practicable route, may require the companies to agree upon and file such joint tariff, or may determine the route, fix the tolls, and apportion the same among the companies interested. Where the companies have agreed upon the route and the through rate, but are unable to agree upon the division of the latter, the Board may apportion such through rate (sections 333 and 334).

The Board may disallow any tariff, or any portion thereof, which it considers unreasonable or unjust, or may prescribe other tolls in lieu of the tolls so disallowed, and any tariff (except standard tariffs), may be amended or supplemented (section 323).

Any freight classification in use in the United States may, subject to any order or direction of the Board, be used by the company with respect to traffic to and from the United States (section 321, subsection 4).

The foregoing provisions of the Railway Act seem to be the ones applicable to the present inquiry, which is one set on foot by the applicant company with the view of endeavouring to ascertain what the legal rate was upon crude oil in tank cars from Stoy, Indiana, to Toronto, at the dates mentioned later on.

SESSIONAL PAPER No. 20c

Stoy is a station on the Indianapolis Southern Railroad, and on December 19, 1906, the railroad company issued and filed with the Board a joint tariff (C.R.C. No. A-3) making the joint fifth-class rate twenty cents from Stoy to Toronto.

Prior to January 1, 1907, crude oil had no classification, but upon that date official classification No. 29 came into effect, which placed crude oil in the fifth class. This was a classification in use in the United States, and has been and is being used by the Grand Trunk Railway Company, as it had the right to do, pursuant to the provisions of section 321, subsection 4. Prior, however, to the coming into force of this classification, and on November 30, 1906, effective January 1, 1907, the Grand Trunk Railway Company issued and filed with the Board an *exception* as follows:—

The Grand Trunk Railway Company will not honour, on petroleum and its products when shipped from points in the United States to points in Canada, the classification ratings shown in official classification No. 29, effective January 1, 1907. On such traffic the local or special commodity rates of the Grand Trunk Railway Company, in effect from the frontier or junction points will govern.

Tariff (C.R.C. No. A—3) above referred to, and filed December 19, 1906, provided for its becoming effective January 20, 1907, and was based upon the official classification above referred to, and upon its coming into effect crude oil moving from Stoy to Toronto would take, under the classification, the fifth-class rate of twenty cents.

The first question that presents itself is whether this tariff, as affecting crude oil destined to points in Canada, took effect in spite of the *exception* to the classification filed by the Grand Trunk Railway Company. The Act makes no provision for the procedure adopted by the Grand Trunk Railway Company in filing this *exception*, and we are of opinion that it in no way destroyed the classification in whole or in part, and that upon its becoming effective, it did so in its entirety.

The railway company also filed with the Interstate Commerce Commission a like *exception* to this classification, but we think whatever effect that may have had in the United States, it can have none here. The procedure provided by the Railway Act must govern.

Tariff (C.R.C. No. A—3) filed by the Indianapolis Southern Railroad Company was in compliance with section 336 of the Act, being a *joint tariff* for the *continuous route* from Stoy to Toronto. Reading the classification and the tariff together, in so far as Canada is concerned, the legal rate established would be twenty cents, unless the *exception* of the Grand Trunk Railway Company had the effect of destroying the classification as to crude oil when destined to points in Canada, and as no provision is made for such step, or result, no such effect could have been accomplished. Any other practice must lead to endless confusion. We cannot introduce here, or follow the practice established in the United States regarding *exceptions* to classification; the practice there is necessitated by reason of the Interstate Commerce Commission not having the control over classifications that parliament has conferred upon this Board. Power is given to prescribe or authorize any classification the Board deems proper, and once authorized, it cannot be varied except with the Board's approval. The only attempt made here to vary the classification was with respect to petroleum and its products, *when destined to points in Canada*. The reason given for this attempt was not that the joint rate covered by the joint tariff was unreasonable or unprofitable to respondents. It was admitted that the local rate attempted to be established in the place of the share of the joint rate was excessive, and intentionally so. It was established, so it was stated in evidence, 'to keep out American oil by putting up these rates.' This is illegal, so we have an attempt to introduce a procedure not provided by the Act, in order to bring about a state of affairs that is in violation of the Act.

No exception was taken to this classification, except when the shipment was destined to a point in Canada. Oil could move from Windsor or Sarnia over the

1 GEORGE V., A. 1911

Grand Trunk Railway to Buffalo at the rate covered by the tariff and under the classification in question; but to intermediate points in Canada, over the same route, higher rates are attempted to be enforced, thereby discriminating against the Canadian consignee. Such result should not be permitted unless the respondents are entirely within the provisions of Canadian law.

No order of the Board respecting this classification has ever been made under subsection 4 of section 321, it was and is being voluntarily used by the respondents.

It is open to the Board under the words, '*subject to any order or direction of the Board*,' to permit a variation from the classification with respect to traffic to and from the United States, but such variation would require to be reasonable and proper; and to permit the attempted variation by reason of the filing of the *exception* referred to would, we think, be granting something unreasonable and improper. We think all the provisions of section 321, subsections 2 and 3, apply to a classification used under the provisions of subsection 4.

The freight classification in use in the United States (subsection 4 of 321), under which this traffic moved, was and is the official classification. The *exception* filed by the respondents had no reference to this classification in so far as it was *in use in the United States*. It was only as to petroleum and its products, so far as it might be applied to Canada. The *exception* applied only to frontier or junction points. So giving effect to the argument of respondents would have the result that filing an *exception* relating to Canadian traffic only, at Washington, would from time to time change this classification, so far as it was used in Canada, no matter whether such an *exception* were filed with this Board or not.

In July, 1907, the applicant company located in Toronto and entered into contracts with dealers in crude oil at Stoy, extending over a period of years.

The president of the applicant company states in evidence that he was verbally assured by a representative or representatives of the Indianapolis Southern Railroad Company that there was a fifth class (official classification) through rate of twenty cents on petroleum, &c., Stoy to Toronto, and that he was also supplied by the said railroad company with a copy of its tariff B-58 (C.R.C. A-3) which quoted the Grand Trunk as being a participant in through rates Stoy to Toronto. The shipments of the applicant company from Stoy began about September 1, 1907. On September 18, the president of the applicant company received a communication from the Illinois Central Railway, it in the meantime having obtained control of the Indianapolis Southern Railroad Company, under date of September 14, 1907, which stated that:—

The Grand Trunk people have now positively advised us that we must cancel the fifth-class rate of twenty cents per hundred pounds on oil to Toronto, and that the rate will have to be based on Detroit, fifteen cents to Detroit, seventeen and a half cents Detroit to Toronto, making through rate of thirty-two and a half cents.

Fifteen cars were received in Toronto between October 1 and November 5, 1907. The Grand Trunk Railway Company billed these fifteen cars at thirty-two and a half cents, but when its attention was directed to Indianapolis Southern Railroad Company's tariff B-58 (C.R.C. No. 3), the rate was changed by the respondents to twenty cents, and payment in accordance therewith was made by the applicant company. On cars reaching Toronto at a later date, the expense bill showed a rate of thirty-two and a half cents. On these the applicant company proffered payment of the twenty cent rate. The Grand Trunk Railway Company refused to release these cars except on payment of the thirty-two and a half cent rate, and a little later billed the applicant for an alleged undercharge of twelve and a half cents on the shipment of the first fifteen cars. The applicant company contends that twenty cents is the legal rate and that there should be a refund of the difference between the thirty-two and a half cent rate and the twenty cent rate, as well as of certain demur-

SESSIONAL PAPER No. 20c

rage claims which had to be paid in order to obtain the release of the cars on which the thirty-two and a half cent rate had been charged.

On November 7, 1907, the Indianapolis Southern Railroad Company issued its joint tariff, effective December 9 (C.R.C. No. A-7), purporting to cover points in Canada, and naming the respondents as participating parties, the note to which is as follows: 'The rates herein on petroleum and its products will not apply on shipments destined to points in Canada.' Presumably this was an attempt to destroy the joint rate established by the tariff of January, 1907, as on December 3, 1907, that railroad company wrote the applicant company as follows:—

We would not have cancelled the fifth class rates had we not been required by the Canadian roads to do so, and should it be the desire of the Grand Trunk or the Canadian Pacific Railway to restore the fifth-class basis, we would be perfectly willing to make the restoration.

No exceptions to the statements in this letter were taken by the respondents, so it is fair to infer that the attempt to displace the through rate was made at their instance.

We think, however, the filing of the last-mentioned tariff had not the effect supposed; it could have no such effect without reading section 338 out of the Act, for by it upon a joint tariff being filed with the Board, the only tolls that can be charged are those specified therein 'until such tariff is *superseded* or *disallowed* by the Board.' Superseded means 'supplanted' or 'replaced,' therefore, once a joint tariff is filed, unless it is disallowed, it remains in force until replaced by another joint tariff, and it is not open to the carrier filing it to destroy its effect by filing a supplement alleging that the sum of the locals shall be substituted for the joint through rate.

Upon the construction we feel compelled to place upon these sections, it would seem that the only legal rate from Stoy to Toronto upon the commodity since the beginning of 1907, is twenty cents. We are alive to the importance of this interpretation of the Act as it bears upon the classification, and the filing of a joint tariff by a foreign carrier. This holding will not have the effect of permitting the foreign road to fix the tolls of the Canadian carriage without its consent, or of imposing upon it an American classification in its entirety if the Canadian road adopts any portion of it, as provision is made for both these contingencies.

First, as to the joint tariff. If a foreign road, without the approval of the Canadian, files a joint tariff which the latter does not desire to participate in, its course is to apply to the Board, under section 338, to have it disallowed, and if this course is not taken, the tolls provided in such joint tariff become, by virtue of section 338, the only tolls that can be charged.

Second, as to the classification. If a Canadian carrier desires any variation or alteration in any classification used in the United States, owing to difference of circumstances in Canada, application may be made to the Board, under section 321, subsection 4, for *any order or direction* with reference to such classification that might be thought proper.

In arriving at these conclusions, we are in no way overlooking the argument of Mr. Biggar, for the respondents, that the Board has no jurisdiction to require the foreign carrier to file a joint tariff. The difference in the Act between through traffic moving over domestic roads only, and the like traffic having its origin in the United States, destined to points in Canada, is very apparent, and necessarily so, because, of course, as to the latter traffic Parliament could not confer upon this Board any jurisdiction over the initial carrier, but no trouble arises here over this question as the initial carrier in the case in hand complied with the Railway Act, and filed the joint tariff, thereby placing upon the Canadian company affected the obligation of taking the step above indicated. Nor is the argument based upon the note on the face of tariff C.R.C. No. A-3, viz., governed by 'the official classification

1 GEORGE V., A. 1911

and exceptions thereto' being overlooked. Mr. Biggar says this is intended to convey the information that the rates shown on page 209, tariff No. 806, are not to apply to points in Canada via the Grand Trunk Railway. We do not understand how this note could convey such information, and certainly the interpretation put upon tariff No. A-3 by the Indianapolis Southern Railroad Company itself, as indicated by its letters above set out, was not that now contended for.

The argument that because the Act to regulate commerce requires formal concurrence to be duly filed by participating roads to joint tariffs, and as no such concurrence was filed by the Grand Trunk Railway Company to this tariff with the Interstate Commerce Commission, it never bound the Grand Trunk Railway Company, can have no effect, because the Railway Act does not require such concurrence, except as to domestic traffic falling within section 333. It may be also noted that in the United States the only thing that has to be filed is 'such evidence of concurrence therein or acceptance thereof *as may be required or approved by the Commission.*' Section 336 of the Railway Act, which gives rise to the trouble here, is silent as to concurrence, but of course it is not to be assumed that any foreign railway company would file a joint tariff naming participating carriers without, before filing, having obtained their concurrence and if such were done, inadvertently or otherwise, under our Act, it seems the only course open to the objecting carrier would be to apply for its disallowance.

It is argued for the respondents that the whole blame for the tangle here should be placed upon the Indianapolis Southern Railroad Company. We do not think so. On March 9, 1905, the respondents filed with the Board a general concurrence in all joint tariffs which theretofore or thereafter might be issued by other carriers in which the Grand Trunk Railway Company might be named as a party, unless notice to the contrary should be given to the Commission. We do not, however, read this as applying to any joint tariff filed under section 336, but the filing of such general concurrence might be a convenient practice as to tariffs filed under section 333 to save the participating carriers the trouble of filing concurrences with each joint tariff as it was filed. But when traffic commenced to move under the tariff now in dispute, the respondents themselves supposed the tariff to be on foot and billed and accepted payment of the first fifteen cars at twenty cents per hundred pounds. It is said this was a mistake, and when discovered, it was rectified. We are not told how or when it was discovered. These tariffs are intended for the guidance of shippers, and they are supposed to be able to ascertain from them what the lawful tolls are. Here we have a case of the applicant company making expenditures and entering into contracts upon the faith of the interpretation put upon the tariff by the initial carrier, traffic moving under the tariff as construed, and such construction adopted by the participating carrier, and then an attempt by the latter to set up an entirely different interpretation at the expense and possible ruination of the industry that attempted to use the tariff promulgated by these carriers.

The applicant company had nothing to do with the making or filing of these tariffs, and is in no way responsible for the confusion that has necessitated two long sittings, two oral and two written arguments, and all this to try to ascertain what the meaning is of all the documents that have been put upon the files of this and the Interstate Commerce Commission regarding this matter. Even if the position were left in doubt, it should be resolved in favour of the applicant company, who are in no way to blame for the situation, unless the attempt to ship crude oil into Canada is to be regarded as a blameworthy act.

We find that the legal toll chargeable upon the shipments in question was twenty cents per hundred pounds, and that that toll is still in force, and the respondents should be at liberty to refund the difference between that sum and the amount collected.

SESSIONAL PAPER No. 20c

Before leaving the case, it is only proper to say that the respondents are entirely absolved of any intentional wrong-doing or violation of the law, and the difficulty has arisen by adopting a practice of attempting to show non-concurrence, not provided for by the Railway Act.

Judgment, Mr. Commissioner Mills, April 3, 1909:—

I may say, in a word, that I began to write out a judgment in this case; and before I had gone far I decided that I could not improve on the statement and recommendations made by James Hardwell, our Chief Traffic Officer, in his report of August 5, 1908, and his supplementary report, dated November 28, 1908. I think Mr. Hardwell's statements of fact are correct, his argument sound, and his conclusions logical and just as between the parties interested.

Therefore, my judgment is that copies of Mr. Hardwell's reports in this case should be sent to the complainants and to the railway company, and that two orders should be issued in accordance with Mr. Hardwell's recommendations—

One order directing the Grand Trunk Railway Company to refund to the complainants the difference between the charges paid by them to the Grand Trunk Company and what they would have paid, had not the said company caused the withdrawal and cancellation of the joint rate of 20 cents per 100 lbs. on petroleum and its products from Stoy, Illinois, U.S.A., to Toronto, Canada.

Another order, under section 321 of the Railway Act, approving the 'Official' Classification, No. 33, or as it may be amended or supplemented by the Official Classification Committee of New York, for the use of the railway companies subject to the legislative authority of the Parliament of Canada, with respect to traffic from and to the United States of America, excepting as the Board may otherwise order.

The order of the Board of May 19, 1909, in accordance with the judgment, declared the legal rate chargeable on the shipments complained of to be twenty cents per 100 pounds, the joint tariff fifth-class rate under the official classification, published and filed with the Board, and that such rate was still in force; and authorized the Grand Trunk Railway Company to refund to the complainant company the difference between the said rate of twenty cents per 100 pounds and the rate of 32½ cents per 100 pounds charged and collected by it from the complainant.

The Assistant Chief Commissioner and Mr. Commissioner McLean concurred in the judgment of the Chief Commissioner.

This case was carried to the Supreme Court upon leave granted by the Board, and is now standing for argument.

Construction Paving Company v. The Canadian Pacific Railway Company.

The applicants alleged that in connection with their work of making asphalt pavements, they imported large quantities of asphalt oil, which for the last five years they had been receiving from the Gulf Refining Company, whose headquarters and shipping point are Philadelphia, Penn.; and that they had frequently requested the railway companies to make a through rate on the oil which was shipped in tank cars. These requests the railway companies refused to grant, and the application was for an order directing the companies to give a through rate on this material and a refund of what overcharges had already been made, the applicants to furnish receipts showing the total amount of freight paid by them in the way of overcharge.

Judgment, Chief Commissioner Mabee, May 20, 1909.

It did not appear during the hearing or argument that there was a through rate from Philadelphia to Toronto provided for in any joint tariff filed by the Pennsylvania Railroad Company covering oil. We have since learned that the Pennsylvania Company filed such a tariff covering all points on the Canadian Pacific Railroad via Buffalo, giving Toronto a 22-cent rate. Oil falls in class 5 of the Official Classification. The respondents subsequently took the same steps that the Grand Trunk

1 GEORGE V., A. 1911

Railway Company took, as appears in the case of the British American Oil Company v. Grand Trunk Railway, but for the reasons given in that case we think the legal effect of what was done here was the establishment of a 22-cent rate, and that that is and was the only legal rate in existence when this oil moved. There should be a declaration that 22 cents is the legally established rate and the respondents should have leave to refund the difference between 22 cents and the amount collected upon the shipments in question.

The Assistant Chief Commissioner and Mr. Commissioner McLean concurred.

Re GENERAL ORDER FOR JOINT FREIGHT AND PASSENGER TARIFFS AGAINST SUMS OF LOCALS.

This matter arose over the consideration of a proposed order respecting joint freight and passenger tariffs where the tolls exceed the sum of the toll for the same or like traffic of the several companies singly or jointly operating the continuous route between the point of origin of the traffic and the destination thereof.

The facts are fully set forth in the judgment of Mr. Commissioner McLean.

Judgment, Mr. Commissioner McLean, May 28, 1909.

Complaints have arisen that, in various instances, traffic moving over railways, subject to the jurisdiction of the Board, has, when moving on a through rate, been charged a higher toll than would have been obtained from a combination of the locals. In various instances railways have admitted that this apparently anomalous condition is not justifiable, for they have stated their willingness to refund the difference between the combination of locals and the higher through rate.

It is a fundamental proposition under the policy outlined by the Railway Act that when a rate, whether joint or whether limited to points situated on one line of railway alone, has come into force in conformity with the provisions of the Railway Act, it is the only legal rate in respect of the traffic mentioned and between the points mentioned. This policy is not limited to Canada alone. In 1906 the Interstate Commerce Commission, which has had to deal with the problem now before us established the same position.

While the provisions of the Canadian Railway Act differs in various respects from those of the Act to Regulate Commerce and while the findings of the Commission organized under that Act are by no means applicable in their entirety in Canada, it is manifest that when that body has dealt with problems identical with those coming before the Board, the findings and experience of that commission demand most careful attention. Prior to 1906, a practice had at times prevailed in the United States of stating in a tariff quoting through rates, that where the sum of the locals was less, such lower combination would apply. It was as a result of the disadvantages attaching to such an arrangement that the position of the Interstate Commerce Commission in regard to the single legal rate, referred to above, was established in 1906.

It has been suggested that the practice, found objectionable in the United States, might be used in Canada to relieve a shipper from the burden of paying a through rate exceeding the sum of the locals. While this suggestion would apparently solve the difficulty, it is of the nature of a rapid fire solution to create other and more important difficulties. It is of course apparent that the arrangement whereby a lower combination of locals takes in time the place of a higher through rate, is an outcome of traffic conditions not of a mere concession by the railways. For it is open to the shipper to treat his shipment as a local one, billing it to the junction point or points and so on to destination. There are delays and inconveniences incident to such an arrangement. But, if the extra time and labour necessary are not too great, the freight might move under such conditions, abstractly such an arrangement might exist in regard to passenger traffic. In practice the convenience of an unbroken journey plays such a part that such an arrangement would be of much less importance here.

SESSIONAL PAPER No. 20c

The question must be looked at from the standpoint of its bearing on the policy of the Railway Act. A shipper whose business is extensive will be more apt to know of the existence of beneficial combinations falling below the through rate as published. The small shipper may therefore be indemnified through ignorance. Under these conditions it is absolutely essential that the actual rate on which the traffic will move should be open to all as one distinct charge. Otherwise there would be the anomaly of two legal rates in respect of the same traffic—one a legally published through rate, the other a lower combination of locals semi-private in its nature. Such a condition would be directly contrary to the intent and purpose of the Railway Act. If such an arrangement is to be made, it must be made as a result of the affirmative approval of the Board in each instance. The fact that such action will be a matter of record will inform the shipping public.

The policy which is open to the Interstate Commerce Commission of allowing, in individual cases, reparation on the basis of the difference between the higher joint rate found unreasonable and the lower combination of the locals, is not open to us, because we have no power to grant reparation. Our jurisdiction, where a rate has become legally operative being in no sense retroactive. Parliament in so legislating must have seen disadvantages in the practice of reparation, and it is not for us to attempt to widen our control in other ways to offset the condition arising from the lack of power to grant reparation.

The draft order declares:—

(a) that in future, joint rates shall not be filed which are in excess of the sum of the locals.

(b) that joint rates at present in existence shall be disallowed when they exceed the sum of the locals.

In regard to provision (a) this is a roundabout way of dealing by anticipation with the question of reparation. In the case of provision (b) the question of reparation is dealt with by indirection. For if the published rate were found to be in excess of the sum of the locals then there would have to be a refund of the difference.

In the case of both provisions (a) and (b), it must be recognized that it is practically impossible for the officials of the Board to check through all such tariffs on file to see whether they are in excess of the locals. In practice the matter would have to be dealt with as a result of complaint.

The further fact must be recognized that when, as a result of any new combinations arising, combinations lower than the published through rate are obtained, these new combinations must under the draft order become operative as a new through rate. Where a commodity or an emergency rate enters into the making up of such a combination, it is apparent that when the necessity for the commodity or emergency rate passes the justification for this now through rate would have passed. The result would then be fluctuating rates. It must be recognized that stability of rates is in the public interest.

The provision in the draft order that the tariffs referred to shall be disallowed appears to me to unduly strain the discretion given us under section 323 of the Railway Act. This section empowers the Board to

disallow any tariff or any portion thereof which it considers to be unjust or unreasonable.

This apparently places no limit on the discretion of the Board, or limitation on the mental process by which it arrives at its conclusion. But when the reasonableness of a rate is at stake a question of fact is involved, and it is not to be assumed that the Board would make a final decision as to unreasonableness on the basis of a mere presumption. It is impossible to determine the reasonableness of a rate aside from the concrete conditions it is concerned with. When the Board acts on its own motion, the same tests should be applied as where an individual attacks the reasonableness of a rate. The unreasonableness of a rate or rates should be estab-

1 GEORGE V., A. 1911

lished as a matter of fact and not as mere presumption. When it does appear that the joint rate is in excess of the sum of the locals such higher joint rate is *prima facie* unreasonable. But nothing *conclusive* as to its reasonableness or otherwise can be established until the evidence is heard. There is no yard stick of reasonableness.

The question of passenger rates does not present the same practical difficulties as arise in connection with freight. We are assured by the Michigan Central, for example, that its passenger joint tariffs in Canada are constructed in a general way upon the sums of the locals, except where there are short line or in some cases arbitrary rates made effective that are lower than the combination of fares. The general joint passenger rates are so built up. The necessity for such action in this respect, as is provided for in the draft order, is not apparent.

Reference was made during the hearing to the existing situation regarding commodity rates. Where commodity rates exist, rates to points beyond have, in some instances been made by the addition of the local, in others by the addition of an arbitrary. The Board decided in the Canadian Cannery Case that, since a combination of a commodity rate and a local rate to destination afforded a lower combination rate than the published through rate, such lower combination was open to the shipper a legal rate and that a refund might be made of the difference. It is apparent that this was a decision after investigation on particular facts and regarding a particular case. The draft order would, however, make such a position general, by providing that whenever such a situation arose the higher published through rate would be automatically disallowed. In advance of an investigation in a particular case, I do not feel that it is justifiable that such action should be taken. A commodity rate is established because of special conditions of volume of traffic, competition, &c. I for one cannot conclude in advance of an investigation that such a commodity rate in respect of traffic moving between two given points is in any sense the measure of the reasonableness of a through rate to a point beyond. The railway should be free to exercise its discretion subject always to meeting any complaints which may arise in regard to the longer distance rate.

If as a matter of practice, the railway sees fit to extend the advantage of a commodity rate, through the addition of a local or an arbitrary, to a point beyond, this is within its discretion subject to the provisions and inhibitions of the Railway Act. For the Board on a mere presumption to say that this combination shall measure the reasonable through rate might conceivably interfere with the granting of commodity rates.

Sufficient evidence was submitted at the hearing to show that the arrangement proposed by the draft order would disturb existing rate bases. It is not clear that the public interest would be aided by such action.

From the standpoint of regulative policy the provision that the joint rate should not exceed the sum of the locals does not in my opinion take the Board very far. As was indicated in the course of the hearing, it is within the power of the railways to evade the intent of the draft order by raising the locals. The Board would, then, be no further along since it would be under the necessity of examining in such cases into the reasonableness of the locals. The Board could not divest itself of its power and obligation to look back of the combination of locals to see whether the rate so made up was reasonable. If this is so, why not recognize that the question of reasonableness is a matter of investigation in a particular case, not a matter of general prescription?

When a joint rate does exceed the sum of the locals the fact of a through service as distinct from two or more local movements creates a presumption of unreasonableness. It might even be argued that the economics of through traffic would point to the justifiability of the through rate always being lower than the combination of

SESSIONAL PAPER No. 20c

the locals. But this is a matter which must be established by evidence, and not merely rest on a pure legal presumption.

It is, in my opinion, sufficient to say that the charging of a joint rate in excess of the sum of the locals is *prima facie* an unreasonable and discriminatory practice and that the onus of disproof should in individual complaints be on the railway or railways concerned.

The discussion which has taken place has been sufficient to make clear the policy of the Board, and it is neither expedient nor necessary that the draft order should go.

The Chief and Assistant Chief Commissioner concurred.

The Dawson Board of Trade v. White Pass and Yukon Railway Company, et al.

This was a complaint by the Dawson Board of Trade against the Upper Yukon Transportation Companies, known and operating under the name of the White Pass and Yukon Route, complaining that these companies unreasonably exacted extremely exorbitant freight and passenger rates by reason of a monopoly enjoyed by them to the great injury and detriment of the interests in the Yukon Territory, and also retarding the proper development of the great industry in the territory, namely, mining. The question of jurisdiction was argued and it was arranged that it should be disposed of before the merits were considered.

Judgment of Chief Commissioner Mabee, dated June 14, 1909.

This matter has its origin in a complaint filed by the Dawson Board of Trade against the 'Upper Yukon Transportation Companies,' known and operating under the name of the 'White Pass and Yukon Route.' For various reasons great delay has occurred in dealing with the case, the evidence having been given before the Board as constituted in 1906, and the respondents having denied jurisdiction, that question was only argued on June 10 and 11 instant, and although the argument covered the reasonableness of the tolls exacted as well as the matter of jurisdiction, it is thought better at this moment to deal only with the latter question. Hitherto the 'Route' or 'System' complained of has not recognized the jurisdiction of the Railway Board, and has not filed tariffs, so the Board has acquired knowledge of the schedules of tolls only by their being given in evidence upon this inquiry. The first point for consideration is whether these tariffs should be filed pursuant to the provisions of the Railway Act, and whether the Board has authority to so direct. The land and water route in question between Skagway and Dawson is operated under the following combination:—

A railway company known as the Pacific and Arctic was incorporated under the laws of West Virginia with authority, it is said, to construct a railway from Skagway through Alaska to a point in British Columbia. The British Columbia-Yukon Railway was incorporated on May 8, 1897, by an Act, cap. 49 of the British Columbia legislature, with power to construct, equip, maintain, and operate a railway from a point in British Columbia between the 134th and 136th degrees of longitude, at or near the head of the Lynn canal, thence to the north boundary line of British Columbia. The British Yukon Company was incorporated by 60 and 61 Vic., cap 89 (Dom.), with authority to lay out, construct, and operate a railway from a point in British Columbia, or in the Northwest Territories, near the northwestern or western boundary of British Columbia, between the 134th and 136th degrees longitude west, near the head of the Lynn canal, or at some point in a northeasterly direction from the head of the canal, across the White Pass, northerly and westerly to Selkirk. It had authority also to carry on in British Columbia the business of carriers and forwarders. Section 17 provided that the Railway Act should be incorporated with the Special Act. In 1901 the British Yukon Navigation Company was incorporated by letters patent under the British Columbia Act, and was given authority to operate steamers upon the Yukon river. The White Pass and Yukon Railway Company was incor-

1 GEORGE V., A. 1911

porated in England by letters patent and holds all the stock and bonds of the four firstly mentioned companies, save, it is said, only sufficient qualifying stock for the directors of the four companies, although the annual reports of the company repeatedly state that it holds *all* the stock of the other companies, and the holding company through proxies given by it elects the directors of the four companies. Mr. S. H. Graves is president of these, but the personnel of the boards is not the same in each case. A contract company built the land lines under contract with the three railway companies, and the White Pass Company, but it is not necessary, in dealing with the question of jurisdiction to go elaborately into the history of the construction of the route. There is no separate working or operation of this route from Skagway to Dawson. The same engines and cars operate under the same train crews, and under the same management, from Skagway to White Horse, where traffic is transferred to steamers, the liabilities against which are in the same hands that hold the stock and bonds of the railway lines, as well as the stock of the navigation company: the management of the steamers being the same as that of the land lines; the receipts from the whole four alleged separate portions of the route go into a common purse, out of which the expense of the through transportation is paid, and the whole of the balance turned over to the White Pass Company, which, after making provision for its liabilities divides the surplus among its stockholders. The railway lines were constructed and *equipped* by the contract company in consideration of the latter receiving all the stock and bonds of the former companies, and this arrangement was carried out, the contract company transferring these holdings to the White Pass Company. This feature is mentioned here only for the purpose of dealing, so far as necessary, with the equipment of the railway companies. It would seem that this equipment is owned either by the White Pass Railway Company, or in common by the three local railway companies, some portion of the stock and bonds of each going to the White Pass Railway Company, through the hands of the contract company, to pay for the equipment—at any rate the ownership of the equipment seems to be the same whether the engines and cars are running on the portion of the road or route in Alaska, in British Columbia, or in the Yukon Territory. Upon reference to the return made by the British Yukon Railway Company, a railway admitted to be subject to the jurisdiction of the Board, to the Minister of Railways, for the year ending June 30, 1905, it would seem that this railway reported that it was operating 32 miles of road in British Columbia and 58 in the Yukon Territory, and that it (the British Yukon Railway) had a junction with the Pacific and Arctic; then turning to the equipment that this company owned (see page 16 and 17 of the return), it seems to include all the equipment that appears upon page 9, *list of rolling stock* in the directors' report of the White Pass and Yukon Railway Company to June 30, 1905. Now, if the particulars set out in this government return are accurate, the member of this combination that was brought into corporate existence by the Parliament of Canada was taking the position that it owned all the rolling stock upon the whole system, and was operating all the portion of the rail route that lay in Canada—it will be observed also that its charter authorized it to construct and operate in British Columbia.

It is apparent from traffic agreements, mode of operation, arbitrary division of receipts for bookkeeping purposes, election of directors and appointment of officers that in fact there has never from its inception been anything but a through rate from Skagway to Dawson. Take a resolution passed on June 15, 1900, as an illustration:—

Whereas the *P. & A. Railway Company*, *The British Yukon Railway Company*, and *the British Yukon Transportation Company*, for the purpose of facilitating joint and through traffic over their respective lines, have hitherto entered into certain joint traffic agreements and thereunder jointly compose what is known to the public as the White Pass and Yukon Route, and whereas for convenience of bookkeeping and accounting, the book and bank accounts have heretofore

SESSIONAL PAPER No. 20c

been kept in the name of the White Pass and Yukon Route, and such system has proved satisfactory and convenient, therefore, be it resolved that such system of keeping book and bank accounts be and is hereby ratified, adopted and approved. I am not overlooking the fact that at this time the river division had not been acquired, but similar resolutions appear subsequent to that formation. Take the minutes of the meeting of June 24, 1902, when a resolution was passed authorizing the making of a new agreement with reference to the traffic receipts of the railway of the three companies already mentioned and the British Yukon Navigation Company, by which the gross through traffic earnings were to be applied in the first place to the payment of the operation and other expenses of the four companies—in the second place to the interest upon the bonded debt of the four companies, in so far as the local earnings of the companies should be insufficient to meet the operating expenses and bonded interest, and the remainder of the through traffic earnings are divided between the companies in the following proportions:—

30 per cent to the *P. & A. Ry. Co'y.*

10 per cent to the *B. C. Ry. Co'y.*

25 per cent to the *B. Y. Ry. Co'y.*

35 per cent to the *B. Y. Nav. Co'y.*

and that the operating expenses of the through line of railway from Skagway to White Horse be divided as follows:

54 per cent to the *P. & A. Ry. Co'y.*

14 per cent to the *B. C. Ry. Co'y.*

32 per cent to the *B. Y. Ry. Co'y.*

and that each company would in respect of traffic originating on its own line, and billed or ticketed through to a point on the line of the other, be the sole party to arrange on its own behalf the terms, rates, and all other conditions incident to the contract of carriage, and that the other companies over whose lines such traffic might pass should be, as between themselves and the originating company, bound to recognize such terms, rates, and conditions.

The route has been and is still being operated as a through route, under one management, and Mr. Graves arbitrarily apportions between each of the combined corporations a percentage of earnings. It may be that as to creditors these various entities should be continued, but for the purposes of this inquiry, it is plain that in effect the English company owns and operates this line of transportation from Skagway to Dawson—it was said that company was a holding corporation only, that it had no power either to construct or operate; but it does operate—what is the difference between the English company electing all the directors of the other four companies who in turn appoint a common management, and the English company itself appointing the common management? The English company is the only creditor of the other four, and each of the four is liable to the English company for the debts of the other, or at least the same result could be worked out by reason of the clause in the resolution of June 24, 1902, relating to the bonded interest where the individual company was not earning enough to pay its own, but whatever the proper view of all this may be, the question is as to the Board's jurisdiction upon the foregoing facts.

It was said almost the entire traffic going to White Horse and to river points below, had its origin in Puget Sound ports, and agreements are on foot and in force between the steamship companies carrying traffic into Skagway and the respondents, for joint through rates from Puget Sound points to White Horse and below; these agreements apportion the tolls between the steamship that delivers at Skagway and the respondents, and the tariffs issued by respondents produced before the Board are from Puget Sound points, and so include the steamship proportion to Skagway. It

1 GEORGE V., A. 1911

is not suggested that the respondents are financially connected with or interested in any of the steamship companies delivering traffic at Skagway—these are independent carriers and are not before the Board, even if they were in any way subject to its jurisdiction—nor is the matter to be considered as an application to require through rates from Canadian points, via Skagway and back to a Canadian destination. Traffic is delivered at Skagway to respondents destined to White Horse—what jurisdiction has the Board, if any? Traffic is delivered at Skagway to respondents destined to Dawson—what jurisdiction has the Board, if any?

Section 336 provides that as respects all traffic which shall be carried from any point in a foreign country into Canada by any continuous route owned or operated by any two or more companies, whether Canadian or foreign, a joint tariff for such continuous route shall be duly filed with the Board, Skagway is a point in a foreign country, White Horse a point in Canada, a continuous route has long been established between those points, and whether this route is owned or operated by two or more companies the section provides that a joint tariff for the through route *shall* be filed. None has been filed and it is said the Board is powerless to so require. The British Yukon Railway Company is subject to the jurisdiction of the Parliament of Canada, and section 8, as (b) declares that any railway, the construction or operation of which is authorized by the legislature of any province shall, as to through traffic, when such road connects with a road within the legislative authority of Parliament, be subject to the Railway Act. The through traffic passing over the portion of this continuous route in British Columbia is then subject to the Railway Act. Again, if the returns of the British Yukon Railway Company are to be accepted it is and has all along been operating the British Columbia section, and ss. 21 of section 2 defines 'Railway,' as any railway which the company has authority to 'construct or operate.' The British Yukon Railway Company has authority to 'operate' the section of the road in British Columbia, so in no aspect of the matter can it be said that this railway company cannot be required to file a joint tariff for the continuous route from Skagway to White Horse. Such a tariff does not require any additional agreements than those now on foot, but if it did I think the White Pass Railway Company could be called upon to require the Pacific and Arctic Railway Company to enter into the necessary agreements; or indeed the Pacific and Arctic Railway Company may be required by the Board to so agree. The amendment to the Railway Act passed at the last session extends its provisions to any railway company incorporated elsewhere than in Canada, owning, controlling, operating, or running trains or rolling stock upon or over any line or lines of railway in Canada, either owned, controlled, leased, or operated by such railway company or companies, whether in either case such ownership, control, or operation is acquired by purchase, lease, agreement, control of stock, or by any other means whatsoever; and to any and all railway companies operating or running trains from any point in the United States to any point in Canada.

It was said that the White Pass Railway Company did not fall within this section, because it had no authority to construct or operate a railway in Canada; but as the holders of all the stock in the two railways incorporated in Canada, it must of necessity *control* the lines of these two Canadian companies, and it makes no difference whether it *operates* them directly or through the agency of the local boards that it elects and dominates. It makes no difference whether it had authority to *construct*, and the statute of 1909 does not require the company to have *authority* to operate, it extends the provisions of the Act to all railway companies incorporated in Canada or elsewhere that are operating, either through control of stock or *by other means whatsoever*.

Then as to the Pacific and Arctic Railway Company. Suppose the proper view to be that the section of the road in Alaska is operated by that company, section 336

SESSIONAL PAPER No. 20c

provides that traffic from Skagway carried by it into Canada shall be covered by a joint tariff, which shall be duly filed with the Board—it is the duty of that company to file such a tariff, at least to join in the establishment of such a tariff, and if Parliament has imposed this duty upon the foreign carrier engaged in carrying international traffic, why should not this Board by order require the fulfilment of this obligation? The Board has no alternative but to require carriers to observe the provisions of the Act. It was said there was no means of enforcing such an order, but it is not to be taken for granted that the directions of the Board will not be complied with, and the mode of enforcement may be left for consideration when the necessity therefor arises.

Then as to traffic delivered at Skagway and destined to Dawson, subsection 3 of section 333 provides that 'if that company owns or uses vessels for carrying traffic by sea or inland water between ports in Canada, and if such vessel carries traffic between a port in Canada reached by such company, and a port in Canada reached by the railway of another company, the vessel and the railway of either company shall be deemed to constitute a continuous route in Canada within the meaning of this section'; but as the section itself is dealing only with traffic passing over *any continuous route in Canada*, it is apparent it can have no application to traffic delivered to respondents at Skagway, and so it would seem that as to such traffic destined to Dawson or other river points reached by the respondents' steamers, the Board has no jurisdiction.

Section 335 provides that when traffic is to pass over any continuous route from a point in Canada to a foreign country, and such route is operated by two or more companies, whether Canadian or foreign, is to receive or has received.

The conclusion, therefore, is that the Board has jurisdiction over the tolls which the company or companies may be entitled to charge upon through traffic received at Skagway destined to White Horse or to any intermediate point between the international boundary between Alaska and British Columbia and White Horse, upon the railway line; and upon through traffic received at any point upon the railway line between White Horse and the said international boundary destined to Skagway.

Much evidence was given and vast quantities of statistics compiled with the view of showing that the tolls hitherto charged were excessive, but the Board does not deal with this branch of the case at this stage. The tolls we have authority to deal with are those above indicated only; the tariffs before us are almost entirely directed to through rates from Puget Sound ports to Dawson, including the earnings of the steamship to Skagway, and that of the river line from White Horse to Dawson, the respondents should have an opportunity of preparing tariffs covering the above traffic upon what they regard as a proper basis before the same are reviewed by the Board; these tariffs must be prepared without delay and duly filed when they will be considered by the Board in the light of the evidence already given and each side may supplement as may be reasonable, the Board in the meantime expressing no opinion as to the fairness of existing tolls. The companies should also inform the Board of the proportion of the through tolls or tolls that is allotted to any company or companies if any such division is continued or made.

In holding that the Board has jurisdiction over the tolls of this rail route, the view is taken that where the company or companies are required by the Act to file tariffs the result follows that the Board has the power to disallow or otherwise deal with them.

The Assistant Chief and Mr. Commissioner McLean concurred.

An order, dated June 16, 1909, was issued, requiring the transportation companies interested to file within thirty days from the date of the order, tariffs of tolls in accordance with judgment, and requiring the companies to inform the Board of the proportion in which the said toll is divided or allotted between the companies interested, if any such division or allotment is continued or made.

1 GEORGE V., A. 1911

Montreal Produce Merchants Association v. Grand Trunk and Canadian Pacific Railway Companies.

The applicants applied for an order directing:—

(1) That the exporter of cheese in Montreal be placed on as favourable a basis as to terminal charges at the port of Montreal on his export traffic as his competitor west of Montreal.

(2) That freight tolls on cheese should be put on a parity with those on bacon, and,

(3) Complaining of alleged advance in freight tolls.

Judgment Mr. COMMISSIONER McLEAN.—June 17, 1909, concurred in by Chief Commissioner Mabee and Assistant Chief Commissioner Scott:—The subject matter of this application falls under three subdivisions which are, in order of importance as follows:—

(1) Application that the exporter of cheese in Montreal, be placed on as favourable a basis with regard to rates and charges in his export traffic, as his competitor west of Montreal.

(2) That freight rates on cheese be placed on a parity with those on bacon.

(3) Complaint in regard to alleged advances in freight rates.

The material point in the complaint as to rates and charges is that of terminal expenses at the port of Montreal. There is involved in the complaint not only the question of a basis for the future but also the matter of refunds on such basis, covering the exports shipments of the years 1907 and 1908. While butter and eggs are also handled for export through Montreal, it is admitted that since practically all the cheese reaching Montreal goes into export trade, it may for the purposes of the application before us be treated as peculiarly an export commodity which may be singled out for special treatment.

Cheese may be shipped from points direct in Ontario, via Montreal to Transatlantic ports on a joint rail and ocean bill of lading, composed of the rail rate to Montreal plus the ocean rate to destination. The shipment may also be made on a separate rail and ocean bill of lading to Montreal for storage and subsequent export. At one time the railways supplied a different rate basis as between the two methods of shipment, but at some time prior to 1904 the rail rate was made the same in both cases.

While the rail rate is the same, complaint arises in connection with the charges made for terminal services on the shipments to Montreal which are stored there and subsequently exported. In the case of the shipments on a joint bill of lading the rate to destination is made on the basis of competition via United States ports. At Montreal these cheese shipments are switched direct to the steamship piers. Taking the Grand Trunk—which affords a sufficiently characteristic example—part of this switching is done by the railway over its own tracks, from the Turcot yards to the foot of McGill street at which point it is turned over to the Harbour Commissioners who switch it to the proper pier. At the pier the car is unloaded into the steamship shed by the Grand Trunk employees at an expense of 22½ cents per ton. All the charges in connection with this switching movement as well as the wharfage and Port Warden's fees are absorbed by the railway company. All of this absorption is forced on the railway to meet the competition of United States ports and carriers leading thereto. The attraction of this trade to the Canadian port is in the interest of the development of Canadian trade channels.

The situation in connection with the shipments on the separate bill of lading to Montreal requires analysis. Taking again the situation arising in connection with the Grand Trunk the following conditions exist. None of the cheese warehouses in Montreal are located on a siding. The cheese shipped in on a local bill of lading to

SESSIONAL PAPER No. 20c

these warehouses is switched from the Turcot yards through the terminal yards to the freight shed at Bonaventure. Here it is unloaded by the company's men and delivered to its cartage agents. The cost to the company of handling at Bonaventure was stated in evidence to be 30 cents per ton. The company charges the consignee, under the general cartage tariff in force in Montreal and various other points, 2 cents per 100 pounds for cartage. When this cheese is exported it must be carted to the steamship pier from the warehouse of the exporter at a cost of 1.94 cents per 100 pounds. In addition he pays the Harbour Commissioner's wharfage charge of 20 cents per short ton and the Port Wardens' fees—2 cents per short ton. The latter payment is equivalent to regarding the cheese as originating at Montreal and therefore not subject to the competitive conditions applying on the other traffic. In all the terminal charges of the Montreal exporter amount to 5.04 cents per 100 pounds.

While the application of the Montreal exporters is for an allowance of the inward cartage charges and the wharfage dues and Port Wardens' fees, they recognize that practically none of the cheese handled on through bills of lading is carted to the steamship pier and that the switching costs are lower than those for cartage. On the portion of the switching performed by the Harbour Commissioners there is a charge of .83 of 1 cent per 100 pounds. The applicants therefore average the charges as follows:—

Cartage.	2.00 cents,	Port charges..	1.10 cents=	3.10 cents.
Switching. . . . .	.83 cents,	Port charges..	1.10 cents=	1.93 cents.
				5.03 cents.

dividing by 2 gives an average=2.51 cents.

It is asked that this allowance shall be made in the future so long as the rates and charges are on the present basis, and that there shall also be a refund on this basis for the years 1907 and 1908.

The rail rate being the same to Montreal in either case, it is material to consider the additional charges to shippers or consignees as well as the net earnings obtained by the railway.

If an Ontario point such as Hastings, which is tributary to Belleville, is taken, the following results will be obtained on the basis of 1908 figures:—

		Cents.
(A) On joint rail and ocean bill of lading to Europe stored		
in transit at Belleville, rail rate Hastings to Montreal	23.00	
Stop-over at Belleville.. . . .	2.00	
		25.00
		Cents
(B) On separate rail and ocean bill of lading stored in		
transit at Montreal—		
Rail rate Hastings to Montreal.. . . .	23.00	
Cartage depot to warehouse by railway company.. . . .	2.00	
Cartage warehouse to wharf by exporter.. . . .	1.94	
Port charges.. . . .	1.10	
		28.04

which places the Montreal exporter at an apparent disadvantage of 3.04 cents per 100 pounds.

When the question of the cost to the Grand Trunk of handling the two classes of traffic is considered, different conditions present themselves. Out of the 25 cents received in the shipment from Hastings, the railway absorbs the following:—

1 GEORGE V., A. 1911

	Cents.
Port charges..	1.10
Harbour commissioner's switching charge.. . . . .	.83
Cost of wharfage handling, 22½ cents per ton..	1.13
	<hr/>
	3.06

A deduction of 3.06 cents, making the net earnings 21.94 cents per 100 pounds.
In the case of the cheese stored at Montreal, the gross receipts including inward cartage totals 25 cents per 100 pounds. From this the following deductions must be made:—

	Cents.
Cost of inward cartage to railway..	2.97
Cost of freight shed handling, 30 cents per ton..	1.50
	<hr/>
	4.47

This deduction of 4.47 cents from the gross receipts leaves the net earnings at 20.53 cents or 1.41 cents less than on the shipments on the through bill of lading. If, in addition, the railway has to absorb the 2.51 cents per 100 pounds as asked for by the applicants, the net receipts will be 3.92 cents per 100 pounds less than in the case of the shipments on the through bill of lading.

The applicants alleged that the inward cartage could be performed at a rate of 40 cents per ton or 2 cents per 100 pounds. It appears that under the arrangements the Grand Trunk have with their cartage agents, they pay 2.97 cents per 100 pounds and that they absorb .97 of 1 cent. The applicants stated that they were willing to do their own inward cartage and the railways stated their willingness to accept such an arrangement. This would absolve the railway from the necessity of absorbing .97 of 1 cent. The company's net earnings in the cheese shipped out after storage in Montreal would then be .44 of 1 cent less than where shipment is made on a through bill of lading. If the 2.51 cents were absorbed, then the net earnings would be 2.95 cents less.

It cannot be contended that the Montreal exporter has any right to be placed on a more favourable footing than his competitor who ships on a through bill of lading. If the railway performs for the Montreal exporter special services which cost more than those rendered to his Ontario competitors, or if the situation of the former necessitates the performance of additional and more expensive services, it is manifestly unfair to demand that the railway should absorb the difference. A comparison between the switching charge and the cartage charge is not justifiable. Furthermore, the switching of the through cheese is incidental to the through shipment. So far as the inward cartage charges are concerned they are not shown to be excessive. The 2 cents per 100 pounds charged on the inward shipments is admitted by the applicants to be the actual cost of service at which they themselves could move those shipments.

While the railways did prior to 1904 absorb the inward cartage charges, this is not conclusive that the charges at present are unreasonable or discriminatory. The fact that the railways did in 1905 and 1906, with the permission of the Board, refund the inward cartage charges on cheese subsequently exported, depended in my opinion on special conditions which are not pertinent to the present application.

The application in regard to the inward cartage could only be granted if it were shown that these rates were either unreasonable or discriminatory. The applicants have not established their unreasonableness; the evidence of the respondents has rebutted the presumption of discrimination. This portion of the complaint should therefore be dismissed.

The port charges are the only ones common to both cases. Recognizing that the Montreal exporter must stand the additional cost of various services which are

SESSIONAL PAPER No. 20c

incidental to his location, it is patent that in respect of the question of the absorption of port charges the services are identical. The shipments whether billed through or for storage at Montreal are subject at the initial point to the competition of United States ports. The fact that the point of inspection and storage is located in the one case at Belleville, while in the other it is in Montreal, does not create any such dissimilarity of circumstances as to justify absorption in one case and not in the other.

In the view I have taken of the inward cartage charges it is not necessary to deal at length with reparation. But, in view of the earlier action of the Board in this matter, dealing with the question of refunds during 1905 and 1906, some reference must be made to the matter. It is true that under special circumstances, which were recognized as being explicitly limited to the facts of a particular case, and to the readjustment necessary in changing from the conditions existing prior to 1903 to those established under the Railway Act as amended in that year, the Board did see fit to authorize a refund. Reference was made during the hearing to the fact that the late Chief Commissioner Killam used in his judgment of June 19, 1906, the following language:

As to the future, I see no reason why such a reduction might not be properly made in respect to cheese which is the only commodity as I understand, now intended to be covered by the arrangement.

This is not, however, pertinent to the present application, because it was based on the assumption, subsequently recognized as erroneous, that the tariffs in force had provided for such refunds. In order No. 1995, issued November 19, 1906, it is recited that the order went by consent. The order No. 2570, of February 15, 1907, in regard to refunds on traffic originating south and east of Montreal, was also permissive. It is clear that whatever action was then taken has no bearing on the present application where we are asked to order a refund not dealt with by the tariffs legally in force. In this connection the words of the late Chief Commissioner, during the hearing at Montreal on January 2, 1907, regarding the refunds on cheese traffic originating south and east of Montreal, are pertinent:—

It seems to me, I must say, that the Board cannot insist on refunds where railway companies have collected only the tolls which the tariff existing at the time authorized them to charge. (Evidence Volume 41, p. 207).

Attention may also be directed to his decision in the *Brant Milling Company* case that allowances for free cartage must be covered by tariff. (4 Can. Ry. Cas. 259, at p. 271).

It follows then that while the Board orders absorption of the port dues, it has no power to make such action retroactive.

II.—CHEESE AND BACON RATES.

It is alleged that these are complimentary commodities and that the price of cheese is regulated in England by that of bacon. It is urged that this should be considered in Canada in fixing the rate basis. The alleged competition between these food products may exist. At the same time it must be recognized that it is a competition not between two products of Canada in the English market, which is in reality a world market. If this principle is to be recognized as fixing a rate basis, there is no reason why a whole range of commodities not named in the complaint, and which might under some circumstances be competitive with cheese, should not also be considered. The whole matter is in reality a phase of the competition of markets. It is in the discretion of the railway whether it shall or shall not make rates to meet the competition of markets.

Lancashire Patent Fuel Company, Ltd. v London & North Western Railway Company et al., 12 Ry. & C. Tr. Cas. 79.

1 GEORGE V., A. 1911

La Salle Paper Company v. Michigan Central Railroad Company et al., 16 I. C.C. Rep. 149.

The same principles apply here as in the case of water competition.

This phase of the complaint should be dismissed.

III.—THE COMPLAINT OF THE 'GREAT ADVANCE IN FREIGHT RATES WHICH HAS TAKEN PLACE IN THE PAST TWO OR THREE YEARS.'

Statements have been submitted regarding rate changes in the period 1890 to 1907. No attempt is made to prove these rates unreasonable in themselves. The central point of attack is in reality that of cartage charges. It is true that there has been an increase in cartage charges, but this it is shown has been due to increased cost of service. An example of this has already been given in connection with the matter of cheese. The Grand Trunk pays the Shedden Company for teaming to and from its Bonaventure freight sheds within the corporate limits of the city of Montreal 59.4 cents per ton, while it charges the shipper or consignee 40 cents. No evidence was submitted to show that the shipper or consignee could have this service performed at any lower figure. The Canadian Pacific contract with its cartage company calls for a higher figure than that of the Grand Trunk with its cartage company, while it charges the shipper or consignee no greater sum than does the Grand Trunk. The cartage charges have not been shown to be unreasonable, nor have they been attacked as discriminatory as between those availing themselves of them. This phase of the complaint should be dismissed.

To recapitulate:—

(1) The application for absorption of inward cartage charges should be refused.

(2) The railway companies should on cheese shipped to Montreal on separate rail bill of lading, absorb the harbour dues when such cheese is subsequently exported. Such absorption should continue so long as it is applied in the case of cheese shipped on a joint rail and ocean bill of lading to Europe. Provisions to make this effective should be filed and published in the railway tariffs within thirty days from the date of the order making this judgment effective.

(3) The applications for refunds covering the seasons 1907 and 1908 should be refused.

(4) The application that cheese rates should be placed on a parity with bacon rates should be dismissed.

(5) The portion of the complaint dealing with the alleged 'great advance in freight rates which has taken place in the last two or three years' should be dismissed.

The Chief Commissioner and the Assistant Chief Commissioner concurred.

NOTE.—The following is the opinion of the late Chief Commissioner, Hon. A. C. Killam, referred to above in the judgment of Mr. Commissioner McLean, stating the principles upon which refunds are allowed:—

We think that the order of the Board must be considered to be confined only to the question submitted by the parties, which was with reference to the traffic originating at points west of Montreal. It is only that, that apparently the railway companies have consented to make refunds on, and we only dealt with the matter at that time upon the footing that it was a matter of refund that they were willing to make if the Board thought they could properly do so. The question as to whether the Board should insist upon them making it apply to others, is a different question; and, it seems to me, I must say, that the Board cannot insist on refunds where railway companies have collected only the tolls which the tariffs existing at the time authorized them to charge. The question whether those tariffs should continue in that way, and whether that difference should be made between shipments arising in the west and those arising in the east is another question.

SESSIONAL PAPER No. 20c

Re ONTARIO EASTBOUND SUMMER RATES.

Certain special commodity rates were in part automatically cancelled by the lower rate class rates under the order of the Board No. 3258, dated July 6, 1907, and the Advisory Committee of the Canadian Freight Association applied to the Board for permission under clause (h) of the order to withdraw the remaining rates in the same series.

Clause (h) of the order reads:—

That no special commodity rates now existing which may be lower than the corresponding class tariff rates herein prescribed shall be advanced by reason of the changes herein ordered or without the sanction of the Board.

Judgment Chief Commissioner Mabee, June 21, 1909:—

The clause in contest (h) (in the order of July 6, 1907), was inserted upon the recommendation of the Chief Traffic Officer, who now reports that it has served its purpose and should be eliminated. The whole matter is of a highly technical character, as shown by the reports to the Board and as will appear from the notes of the argument at the hearing.

Apart from the objections of those who will be hit by granting this application, the situation is that the Board as constituted in July, 1907, acting upon the opinion of the Chief Traffic Officer, made the order of that date containing the provisions now under consideration. The east and westbound rate situation was then complex and difficult to deal with. It was elaborately discussed and fully considered. The order followed the recommendations of the Traffic Officer. He now thinks it should be modified and clause (e) eliminated, and it seems to be logical that, as he recommended it, if he now is of opinion it should be removed, the Board should so order.

I am alive to the fact that its removal will be highly objectionable to some interests, but these were ably represented at the hearing, and it seems that to preserve equality and remove existing discriminatory features, the Board should adopt the fully considered report of Mr. Hardwell, with whose reasoning I fully concur.

Let an order issue and submit to Mr. Hardwell for settlement.

The Assistant Chief and Mr. Commissioner McLean concurred.

An order dated June 22, 1909, amending the said order No. 3258, of July 6, 1907, by striking out clause (h) of the said order, issued.

Red Mountain Railway Co. v. Columbia & Western Railway Co.

The Red Mountain Railway Company applied to the Board for a variation of its order fixing the tolls to be paid them for interswitching services performed on through traffic from the Le Roi Mines to the 'transfer track' of the Columbia & Western Railway Company.

The Board had on the application of the Columbia & Western Railway Company fixed at \$3.50 and subsequently at \$3 per carload, the tolls for interswitching paid to the Red Mountain.

The increase in the tolls was sought on the ground that higher grade ore should pay a higher toll and a less movement of cars was not so profitable as a larger.

Judgment Chief Commissioner Mabee, June 21, 1909.

The Great Northern Railway Company are the lessees of the applicants, and the Canadian Pacific Railway Company are the lessees of the respondents.

On February 14, 1906, upon the application of the respondents for an order disallowing a tariff filed by the Red Mountain Railway Company on October 3, 1905, an order was made fixing the sum that the Red Mountain Railway Company should be paid for switching cars containing through freight traffic from the Columbia &

1 GEORGE V., A. 1911

Western 'transfer track' from or to all points reached by the tracks of the Red Mountain Company to certain defined points at \$3.50 per carload. The traffic in question is ore from the Le Roi mines.

Subsequent to the above date the point of interchange had been established at Third Avenue, in the city of Rossland, and on November 16, 1906, upon the application of the Columbia & Western Railway Company, the order of February 14, 1906, was varied by reducing the toll for the services performed by the Red Mountain Railway Company to \$3 per carload instead of \$3.50.

Before the lastly mentioned order was made, the matter was carefully considered, and it appears that the toll was reduced by fifty cents per carload because the cost of the service by the establishment of the new transfer point was cheapened. It was on the level and within the terminals, and the switching movement was shortened by some 1,800 feet. We must, of course, regard the order of November 16, 1906, as having been properly made, and must also regard the toll fixed by that order at \$3 per car as being a fair and proper charge for the services performed. It therefore rests upon the present applicants to satisfy the Board that the situation has so changed that a variation of that order would be proper, the services now being performed are the same, that is, there has been no further change of the transfer point.

Mr. MacNeill, for the applicants, contended that the ore now being shipped from the mines was of a higher grade than that shipped in 1906, and so could stand a higher toll; but those most interested in these tolls, viz., the Le Roi proprietors, were not notified of this application, and as pointed out at the hearing, the Board could not entertain an application to increase these tolls without all interested parties having an opportunity of being heard. We are still of the opinion, as expressed at the hearing, that the general interswitching order does not cover this case. In 1906, some twelve or fifteen cars per day were handled, as I understand, in one shunt from the bin to Third avenue. Now, only two or three cars per day move, and it is said that while \$3 might not have been unfair upon a movement of twelve or fifteen cars, it is upon a movement of only two or three; but upon looking carefully into all the facts that were before the Board in 1906, and further considering the reports of the Chief Traffic Officer, upon whose recommendation that order was made, as well as earlier reports upon the same matter, it nowhere appears that the number of cars per day that might or would be shipped entered into the consideration of the Board. I shall not be misunderstood as saying that the volume of traffic is not a material factor in fixing a rate, but am stating only that I cannot find in the material before the Board that the parties had heretofore urged this point in this case.

To find now that the toll should be increased would be to find that the toll of \$3.50 fixed by the first order was too low, because the further reduction of 50 cents per car was made solely upon the lessened expense of the service.

I am not able to conclude from the facts I have been able to gather that the order of February 14, 1906, should not have been made, and it seems to me that if that were a proper order this application cannot be granted.

It was stated by counsel for the respondents that the tariff of the Columbia & Western on this ore to the Trail smelter was 20 cents per ton, in addition to the \$3 switching charge, so any increase in the switching charge, in the absence of the proprietors of the mine, would have to be absorbed by the Columbia & Western; on a car of 30 tons, from the bin to the smelter, the charge would be \$9, of which \$6 goes to the Columbia & Western and \$3 to the Red Mountain. There are no facts before us from which it can be said this is an unfair division. We are of the opinion the application fails.

Mr. Commissioner McLean concurred.

SESSIONAL PAPER No. 20c

Application by Canadian Portland Cement Company for a reduced through rate on bituminous coal from Black Rock, N.Y., to Marlbank, Ontario.

This was an application by the Canadian Portland Cement Company for a reduced through rate on bituminous coal from Black Rock, N.Y., to Marlbank, Ont., where a cement plant of the applicant company is located.

From Black Rock to Napanee this coal moves over the Grand Trunk Railway a distance of 237 miles, thence to destination, a distance of 36 miles, it moves over the Bay of Quinté Railway. The rate in force at the time of the application was \$1.50 per ton. Of this the Grand Trunk Railway received \$1.05. The applicants alleged that the through rate of \$1.50 was discriminatory and unreasonable.

Judgment Commissioner McLean, dated June 25, 1909:—

The application is launched under sections 315 and 334 of the Railway Act. The central point in the complaint is based on the competition of other cement producers. To quote the words of the complaint:—

We submit that the present rate to Marlbank is excessive and unjustly discriminatory, and that there should be no difference in rates on the commodity, particularly as it enters largely into the cost of production of the output of the applicants who have to compete in open markets with similar factories accorded more favourable treatment.

No doubt the coal, of which from 40,000 to 45,000 tons per annum are consumed, does constitute an important factor in the cost. This phase of the application is in reality a plea that section 315, the 'equality' clause should be used to bring about an equalization of cost of production. This clause is, however, concerned with *traffic conditions*. The allegation regarding 'similar factories' are of no value unless the 'similar factories' are, under similar circumstances and conditions of traffic, accorded more favourable treatment. This has not been established. It is no part of the obligations of the railways, under the Railway Act to equalize costs of production through lowered rates so that all may compete on an even keel in the same market. This phase of the complaint fails.

In the hearing the ground shifted somewhat. Comparisons were made by counsel of the rates to Marlbank with those to such points as Belleville and Kingston. This also had been referred to in the complaint. While Mr. Pullen stated in evidence that there was a competing cement plant at Belleville, counsel for the applicant laid no stress on the point. Counsel for the applicant alleged that these comparisons afforded evidence of discrimination as well as a measure of what should constitute a reasonable through rate to Marlbank.

The following tables show distances, rates and earnings per ton per mile:—

COAL IN CARLOADS.

Black Rock to	Miles.	Rate per ton.	Ton mile earnings.
		\$ cts.	cts.
Belleville	215	0 90	418
Kingston	263	1 25	475
Napanee (local)	237	1 10	464
Marlbank	273	1 50	549

1 GEORGE V., A. 1911

The rate to Marlbank is made up in the following way:—

	Miles.	Division.	Ton mile. earnings.
		\$ cts.	cts.
Black Rock-Napanee	237	1 05	·443
Napanee-Marlbank.....	36	0 45	1·25

The argument as to discrimination based on the above comparisons is concerned (a) with mileage, (b) with water competition.

Mileage.—It is contended that it is unjustifiable to have the rate to Marlbank, ten miles further than to Kingston, 25 cents higher. To compare these mileages as if both were Grand Trunk hauls throughout, is not a proper method of comparison. It is recognized that differences in traffic conditions are in general more important than mere mileage comparisons. In the *Almonte Knitting Company* case the Board recognized that the Canadian Pacific rate on coal to Almonte, seven miles from Carleton Junction, might justifiably be built up by adding an arbitrary of 20 cents per ton to the rate to Carleton Junction.—(*Almonte Knitting Company v. Canadian Pacific Railway and Michigan Central Railway*, 3 Canadian Railway Cases, 441.)

When this principle is recognized as between main line and branch line mileage of the same system it is applicable in greater degree when the rate is made up of a long haul over a heavier traffic road and a short haul over a light traffic road. The Bay of Quinté is a low grade tonnage road, and any comparison on the basis of Grand Trunk main line mileage alone is therefore inconclusive as proving discrimination.

Water Competition.—The rates to Belleville and Kingston are compelled rates based on water competition. At Belleville the competition of the water-borne coal from across the lake is especially effective. So far as the Grand Trunk haul to Napanee is concerned water competition is not directly effective. Counsel for the applicant states that coal may be moved by water to Marlbank, but not in sufficient quantity to meet the needs of the business. That is to say, there is not effective water competition in regard to traffic important in amount. The argument then from the comparison of the Marlbank rate with rates subjected to effective water competition also fails. The Marlbank rate must then be looked at from the standpoint of this general reasonableness. The rate as between the Bay of Quinte and the Grand Trunk is divided in the proportions of 30 per cent and 70 per cent. This is equivalent to rating the 36 miles of the haul over the Bay of Quinte as having a constructive mileage of approximately 103 miles. As has been stated this road is a low grade tonnage one. For the year ending June, 1908, it carried 268,549 tons of freight—62 per cent of this is represented by the items of bituminous coal, coke, stone and sand, lumber and cement, brick and lime. The average ten mile earnings of the road are very low—.1570 of 1 cent. The two important revenue producers of the road are bituminous coal and cement. The net earnings of the road are low—some \$800 per mile. It does not appear from the record or from the Government Statistics bearing on the matter that the 30 per cent division is an unfair one.

So far as the Grand Trunk division is concerned, it is to be noted that its division of the through rate is lower than its local rate to Napanee. It is contended by the applicants that the absence of a terminal service at Napanee in respect of the through traffic should give a still lower division. The evidence however, shows that

SESSIONAL PAPER No. 20c

there is a division of terminal service at Napanee between the Grand Trunk and the Bay of Quinte.

The Grand Trunk has stated its willingness to reduce its division of the through rate of \$1 per ton. The Bay of Quinte states it is willing to participate in whatever through rate is quoted subject to receiving 30 per cent. The division of \$1 to Napanee will give a ten mile rate of .422 of 1 cent as compared with the rate of .418 of 1 cent to Belleville where there is effective water competition. I am of opinion that an arrangement on the basis outlined above is fair and reasonable, and that an order should go for a rate of \$1.43 per ton to Marlbank.

The Chief and Assistant Commissioner concurred.

Order dated June 25, 1909, directing the railway company to publish and file with the Board a tariff of joint rates on bituminous coal from Black Rock, N.Y., and Suspension Bridge, N.Y., to Marlbank, Ontario, of \$1.43, per ton, effective not later than August 23, 1909, issued in accordance with judgment.

The Eureka Coal Company v. Canadian Pacific Railway Company.

The complaint in this matter involves:—

1. Alleged discrimination in freight rates on coal from Estevan.
2. Alleged discrimination in switching charges on coal at Estevan in favour of shippers at Roche Percée and Beinfait.

Judgment, Chief Commissioner Mabee, July 16, 1909.

At the hearing the facts necessary to be known, that some intelligent disposition of the matter might be made, were but imperfectly developed, and it was arranged that the Chief Traffic Officer should make further inquiry into the situation; this he has done and reports the facts as follows:—

Estevan is situated on the Portal section of the Canadian Pacific Railway at the point of connection with the Estevan section. The Portal section runs from the international boundary at Portal to Pasqua (Moosejaw); and the Estevan section runs east from Estevan to Kemnay, on the main line near Brandon. Bienfait is on the Estevan section, 8.61 miles east of Estevan, and is the shipping point of the western Dominion and the Manitoba and Saskatchewan local companies' collieries.

On the Portal section, between Estevan and Portal, are two coal shipping points, Roche Percée, 10.23 miles from Estevan, and Pinto, 14.98 miles from Estevan.

The Portal and Estevan sections form an acute angle at Estevan and between them is the valley of the Souris river.

The radius of the special coal tariff from these points extends, roughly, east of and including Maple Creek and Saskatoon to Emerson and Winnipeg, and east of Winnipeg as far as Molson. Formerly, all four points were, with respect to coal shipments, considered as one group and were given the same rates; but at that time the Western Dominion Colliery Company reached their coal by drifting into the river bank from the valley, and shipped from Roche Percée station on the Portal section. There is stated to be a heavy grade at Roche Percée, and as the eastbound shipments would leave the Portal section at Estevan and go east through Bienfait, it occurred to the railway company that this haul between Roche Percée and Bienfait on eastbound shipments would be avoided if the Western Dominion people would abandon their drift system, sink a shaft from the prairie level, and construct and operate a spur from the pit mouth to Bienfait station, about 4 miles. As an inducement, the railway company offered to reduce its eastbound rates from Bienfait by 10 cents a ton; the offer was accepted, the shaft and the spur line were constructed, (the latter, presumably under the usual siding agreement) and tariffs were

1 GEORGE V., A. 1911

issued accordingly. It is this arrangement that the Eureka Coal and Brick Company of Estevan complain against; their contention being that as Beinfait westbound shipments must go through Estevan, and Beinfait having an advantage of 10 cents a ton on eastbound shipments, Estevan should have the 'same consideration' on shipments westbound; but they are perfectly willing that all the coal miners in that district should be charged the same freight rates. (Evidence p. 2989.) It was stated at the hearing that the eastbound shipments from Estevan amounted to 60 or 70 per cent of the whole.

Since the hearing, the tariff has been somewhat modified in consequence of the Board's order No. 6749, in the complaint of the Board of Trade of Alameda, Sask., which directed the railway company to make reductions from Beinfait to a certain limited territory; but while this rearrangement has, in some cases, lessened Beinfait's 10 cent differential, the rates from this point are still generally lower, on eastbound shipments, than from Estevan. In this readjustment, what seems to be an important concession has been given to the Eureka people, viz.: that to points on the Portal section, which is a westbound movement, the Estevan rates have been made lower than from Beinfait, although previously, following the general rule, the rates from both points had been the same. This reduction does not, however, extend to the main line points west of Pasqua. This reduction was made on the 19th ult.

The Beinfait arrangement was made in May, 1905. I have obtained a statement from the railway company which shows that from that time until the end of March this year, the Western Dominion Collieries shipped eastbound 8,405 carloads. The tariff carload minimum is 20 tons, so that the aggregate would be at least 168,000 tons, and at 10 cents per ton, the total reduction to these shippers under the arrangement would be at least \$16,800.

Upon this state of facts the Chief Traffic Officer is of opinion that the Western Dominion Collieries Company have been 'sufficiently paid for their outlay,' and that as the arrangement has given them a 'more modern system of mining and shipping,' there is merit in the application for equalization, and that the railway company should be required to remove the discrimination by reverting to the old system of equality in rates in both the directions. My brother Commissioner McLean agrees with this recommendation.

I have had much difficulty in accepting this view of the matter, but as the facts are so peculiar and as probably no similar situation will again arise, perhaps I have given more consideration to the case than it is worth. The public, the people who consume this coal, do not seem to be interested, as they will probably pay the same for this coal no matter which side succeeds in this controversy. The railway company suggested the change in the colliery company's plant. It was apparently a sensible suggestion. The 10 cent reduction was proposed by the company so it must be presumed to have been reasonable, and yet it seems the railway company must now be ordered to charge a higher toll than it is willing to haul the coal for. It would seem more logical, if these shipping points are to be grouped, to reduce the rates from the others rather than raise that from Beinfait. The proposition is that where a shipper expends large sums in cheapening his expense of delivery to the carrier, he is to be deprived of the benefit of his enterprise and expenditure as soon as he gets his money back. In the present case the result of the complaint is not to better the applicants, it only hits the colliery that expended the money to cheapen its cost of shipping, and puts 10 cents per ton in the pocket of the railway company, and which apparently they did not want. The only interests adversely affected by this proceeding are those of the Western Dominion Collieries and they have not been made parties to this application, nor have they been heard. So I am of opinion that if the course recommended by the Chief Traffic Officer is the proper one, then

SESSIONAL PAPER No. 20c

the Western Dominion Colliery Company should be notified by the applicant of these proceedings and given a chance to be heard.

In regard to the second branch of the complaint, the Chief Traffic Officer reports the facts and his recommendations as follows:—

As regards the Estevan switching, it was proved at the hearing by evidence and vouchers that Mr. Lanigan's answer for the railway company was based on the assumption that the company's old ballast pit siding was the one which the Eureka people were using and that this was erroneous, that actually used being known as Mickleson's spur, so that Mr. Lanigan's tables and estimates became valueless. It was also shown that the Eureka people had paid for the ties and for the grading and surfacing of the Mickleson spur, also for keeping it clear of snow; the company as usual, furnishing the rails and fastenings. The company had not billed Eureka with the customary interest on the steel, but the Eureka company was prepared to sign the agreement which the owners and users of private sidings elsewhere had accepted. There are other mines at Estevan, but these load their coal in the railway yard.

Mr. Peterson, the manager of the Eureka Company, stated that the switching charge was originally \$2, which was raised to \$3, and was put back last fall to \$2, which he is now paying. Attached to the file is a letter from Mr. Peterson, dated Estevan, August 5, 1908, notifying you that the \$2 rate was quite satisfactory. At the hearing, however, the ground was taken that as the company had to haul over ten miles from Roche Percee, and fifteen miles from Pinto, further than from Estevan, these additional hauls counterbalanced the switching at Estevan, and that the latter should not, therefore, be charged. It was admitted that at Pinto the miners delivered their coal at the railway yard.

As regards Roche Percee, where the mine of the Roche Percee Coal Company is in the valley, it was Mr. Peterson's impression that no switching charge was made, but Mr. Lanigan stated that the coal company delivered their coal at the Roche Percee station. The company's tariff (C.R.C. W. 1110) does not show any rate for switching coal from the mine to the station. It does show a rate of \$3 for switching general merchandise in the 5th and higher classes, and \$2.60 per car for mine supplies in the 6th and lower classes, between the station and the mines of the Roche Percee Coal Company, and the Great West Coal Company; but these rates are apparently intended to apply on general supplies, not on coal. According to the evidence, the grade at Roche Percee is at least as heavy as that at Estevan, so that if the railway company performs the switching at that point free of charge there would seem to be reason in the Eureka company's contention that no charge should be made to them on the siding account, other than the interest on the steel. It is unfortunate that no one at the hearing was prepared with definite information.

Of course, if the miners do their own switching at Roche Percee, and if the 10 per cent differential be abolished at Bienfait, and the miners there continue to do their own switching, the objection of the Eureka people to the \$2 rate which, by letter, they accepted as satisfactory, should disappear.

I would recommend that the toll of \$2 per car charged by the railway company for switching coal and brick from the colliery and brick yard of the Eureka Coal & Brick Company, to the station yard at Estevan, for furtherance, be approved, provided that the switching from the colliery to the railway company's station at Bienfait and Roche Percee be performed by, and at the expense of, the coal mining companies operating at those points; but that should the railway company assume the cost of the switching at Bienfait or Roche Percee, the company shall assume the cost of Estevan also.

The matter concerning this part of the complaint seems to be involved in obscurity; there may be certain features of it that have not yet been developed and the

1 GEORGE V., A. 1911

actions suggested may affect interests that have not been heard; and, I, therefore, think that the safe course to pursue is to send copies of the report and of this memorandum to all concerned and require the applicants to add them as respondents so they may submit their views for consideration.

I know this is irregular, there has been much delay and the above course will involve more; this, however, is caused by the complainants not furnishing the Board with the facts, and leaving us to discover them as best we could.

Mr. Commissioner McLean concurred.

Cardston Board of Trade v. Alberta Railway & Irrigation Company.

The complaint was that the respondent corporation charged excessive passenger, freight and express tolls and did not furnish sufficient car service and passenger facilities.

The respondent company operate a railway and collieries, own large areas of irrigated lands and town lots and is the result of amalgamation of the Alberta Railway and Coal Company, the Canadian Northwest Irrigation Company, the St. Mary's River Railway and the Alberta Railway and Irrigation Company. The contention on behalf of the respondent company was that the toll should not be reduced and greater facilities furnished because the railway and irrigation works did not pay and the land and coal areas covered the deficit.

Judgment. Chief Commissioner Mabee, July 22, 1909.

The respondents operate a line of railway in Southern Alberta running southerly from Lethbridge; they own large areas of land that are being irrigated under an extensive system in course of construction by the company; they own and operate coal mines and have large numbers of town lots in Lethbridge and Raymond.

The present corporation is the result of an amalgamation in July, 1904, of four corporations, viz., the Alberta Railway and Coal Company, the Canadian Northwest Irrigation Company, the St. Mary's River Railway Company, and the Alberta Railway and Irrigation Company.

At the hearing, the Board was furnished with but little information as to the financial position of the company, or of the organization, financial history, capitalization of the four companies prior to the amalgamation. Since the hearing, the amalgamation agreement of July, 1904, and the directors' report for the year ending June 30, 1908, have been filed, and we have been left to spell out the position as best we could.

It may as well be said at once that the documents that have been given us, and such information as we were furnished with at the hearing, in no way present, with any minute detail, the financial history of this organization. Counsel told us at the hearing that all the outstanding stock, both common and debenture, represented actual cash invested. This may be quite true, and we have no doubt counsel was so instructed and fully believed to be the fact, but it is something that could be so easily proved and is of so much importance that we take the liberty of thinking should not have been left open to question. There are many complicated matters in the amalgamation agreement that do not explain themselves, and while desiring to studiously avoid in any way injuring the amalgamated corporation, it is difficult to approach a consideration of this matter without feeling that it is strange that there are so many points that have been left open and unexplained to the Board.

Owing to the variety of interests of the corporation and its various sources of revenue, each having its own incidental expense of production it was very necessary that the Board should be furnished with the fullest details.

The attack is made here upon the railway portion of the respondent's business; the report of June 30, 1908, has this item, 'net revenue from colliery, railways, canals, land sales, &c., \$322,493.23.' Earlier in the report it is stated that coal sales

SESSIONAL PAPER No. 20c

of the year amounted to 208,016 tons as compared with 122,947 for the previous year; the gross earnings of the railway were \$228,775.07 as compared with \$197,608.09 for the previous year; the land sales aggregated 125,202 acres and realized \$712,644.00; there were also sold during the year 3,206 acres in which the company had an interest with the Canadian Pacific Railway Company; the profit from the sale of town lots was \$9,594; also that in connection with land sales there was in reserve \$941,574.31; the receipts for the year from water rentals were \$24,635.41 as compared with \$18,969.78 for the previous year. It is stated that on June 30, 1908, the company had on hand 427,981 acres remaining unsold, in addition to many lots in Lethbridge and Raymond. The following extracts are taken from this same report:—

‘Generally the prospects of the company are very encouraging. The crops of the district have proved most satisfactory; the lands sold by the company are being occupied and cultivated by well-to-do settlers, tending to increased railway earnings, to coal sales, and to the enhancement of the value of the company’s lands and town lots. The Canadian Pacific Railway in its annual report this year, mentions that it has managed to secure such an interest in the company as will constitute a substantial control; and the report adds that their investment will prove a profitable one. Your directors congratulate the shareholders on the Canadian Pacific having become largely interested in the company, thus securing the active co-operation of that powerful and successful corporation.’

A statement sent to the Board subsequent to the hearing shows the earnings from the operation of the railway for the year ending June 30, 1908, to have been, including the sum of \$10,046.69, being earnings from ‘telegraph, telephone, and other sources,’ \$204,094.07 and not \$228,775.07, as shown in the report of the directors, and this difference of \$24,681 is to the extent of \$23,914.41 explained in this way: ‘The company, for the purpose of showing the railway earnings to better advantage, made a bookkeeping entry debiting the colliery with the switching charge of 12½ cents per ton on the total output for the year, and crediting the railway with the same.’

Now in one aspect of the situation this is an entirely domestic matter and something that the public have no business to inquire about, but as it arises here, it ceases to be a private bookkeeping matter of the company, and becomes one that the public is largely concerned in. The attack is that the freight and passenger tolls charged the public are too high; the answer is that the railway does not pay. It then appears that the railway hauls large quantities of coal, the property of the company, and that some one thought it was only fair to the railway company to credit it with \$23,914.41, being 12½ cents per ton, as a ‘switching charge’ for the coal output. We are not informed what this switching movement consisted of and have no means of knowing whether 12½ cents per ton is too much or too little, or whether there are other services that might properly be credited to the railway company or not. This is given as an illustration why, in a case like the present, it is so necessary to be informed of all details of the company’s business, and we think the company should have furnished such information.

Again, we were not informed of the total capital that was invested in the railways and terminals, as a separate undertaking from the other branches of the company’s activities. The absence of this and other information which will readily suggest itself as being useful, hampers the Board in disposing of this case.

The report shows the company to be prosperous. A newspaper clipping was put in at the trial containing the following statement, to which no objection has since been taken: ‘The following clipping is taken from the annual report of the Canadian Pacific Railway Company for the year ending June 30, 1908: “The Alberta Railway and Irrigation Company, owning 113 miles of railway in Southern Alberta, as well as an important colliery and about 425,000 acres of land, part of which is served by irrigation ditches, was operated by its owners as a close friendly connec-

1 GEORGE V., A. 1911

tion of your company, yielding to our lines a large revenue from traffic interchanged, and furnishing the company and settlers along the railway a supply of coal. To insure a continuance of this desirable connection, your directors deem it prudent for the company to secure such an interest in the property as will constitute a substantial control, and they have arranged to do this at an approximate cost of \$2,000,000. Apart from the traffic advantages thereby safeguarded, the investment itself will prove a profitable one." This also indicates prosperity. Counsel told us at the hearing that 'the things paying are being used for the support of the railway and irrigation ends that are not paying. That is the size of it. Land and coal cover the deficits.' I endeavoured as far as possible at the hearing to get at the bottom of the matter, and although I have again gone over the notes of argument and the documents subsequently filed, I am unable to find evidence that there are deficits in the operation of the 'railway and irrigation ends.' In the first place, we are not furnished with the figures showing receipts and expenditures of each of these enterprises separately, and until that is done, as well as an intimate knowledge of capitalization acquired, we can make no finding of fact as to which, if any, are the weak sisters in this family, and treated as a whole, both the directors of the respondent corporation, and the Canadian Pacific, the recent purchasers of a controlling interest, regard the holdings as desirable; and treating the corporation as a whole, which is the way the matter is left upon our hands, we have no doubt that the views of the directors, and the purchasers of the stock, were well founded.

At the hearing, I endeavoured to get some idea of the amount of capital that was employed in this railway and its equipment, but was told no apportionment had ever been made, although the Department of Railways and Canals had repeatedly called for it, and the respondents have had much trouble from time to time over that matter.

We regard the control acquired over this road by the Canadian Pacific Railway Company a very material factor in this case. It was stated at the hearing, not by counsel for the respondent but by a gentleman who should know, that the Canadian Pacific Railway Company had acquired from 66 per cent to 70 per cent of the stock. This, of course, would place it in 'substantial control.' Now the only connection the respondent has in Canada is with the Canadian Pacific, and it has always been much dependent upon that railway company for its existence.

In addressing the last annual meeting of the shareholders, the president of the respondent company said that the demand for coal throughout the country exceeded the company's productive capacity, and that the tonnage sold depends wholly upon the Canadian Pacific Railway Company's car supply; and at the hearing the General Manager said the company had 'seven locomotives, six passenger coaches, several cabooses and box cars and coal cars. As far as the equipment is concerned, through freight business is usually carried in through cars, cars of foreign roads; we allow none of our equipment off our own road;' and again, when asked how many box cars the company had he said: 'We have probably ten of our own; they are in service very little.' It is naturally to be supposed now that the Canadian Pacific is in control of the respondent corporation that the facilities upon this railway will be greatly improved, and so far as the complaint covers deficient car service and insufficient passenger facilities, it may remain in abeyance, so that an opportunity may be given for improvement by the management, and after, say, six months, upon application by the complainants, if they find that course necessary, the Board will send one of its operating officials over the road, and will be guided by his report in directing any changes or improvements in train service and otherwise, that may be reasonable.

There is no separate express company operating over this railway, but express matter is handled by the company on its freight and mixed trains. No express tariffs have been filed, and it was said the same charges are made as are shown in

SESSIONAL PAPER No. 20c

the tariffs of the Dominion Express Company. Express packages are gathered and delivered in Lethbridge by the wagons of the Dominion Express Company, and respondents pay the latter for the service; the basis of such payments was not given to us. The company is in default regarding its express business. The law is imperative in its provisions regarding the filing of express tariffs, and provides that, no goods shall be carried by express unless and until the tariff of express tolls has been submitted to and filed with the Board, section 350. 'And express toll' means any toll, rate or charge to be charged by the company, or any person or corporation other than the company to any persons for hire, or otherwise, for or in connection with the collecting, receiving, caring for, or handling of any goods for the purpose of being transported by express, or for any service incidental thereto, section 2, subsection 9. The whole express situation is now being considered by the Board, and its result will be applicable to the express business of this company, and nothing more need now be said as to this feature of the complaint, except that the company must at once prepare and file its tariff of express tolls and comply generally with the tariff clauses of the Act.

The questions then remain as to the complaints regarding the charges made for the transportation of passengers and freight. Prior to 1907, the company had been charging five cents per mile, and by an order of the Board of July 26, 1907, the company was directed to reduce its standard tariff to the basis of four cents per mile with return fares at $1\frac{2}{3}$ times the rate for the single journey, and I understand the company has since been charging upon that basis.

In a report dated March 16, 1907, the Chief Traffic Officer of the Board expressed the opinion that passenger fares should be reduced to $3\frac{1}{2}$ cents per mile, round-trip tickets to be one-sixth less. The passenger earnings for the year ending June 30, 1906, were \$38,740.29; the passenger earnings for the year ending June 30, 1908, were \$52,516.85. The section of the country through which this road operates is rapidly being settled and the population is increasing, and we see no reason why the passenger fares south of Lethbridge over this line should be higher than those north of Lethbridge over the Canadian Pacific road; the passenger fares must be reduced to three cents per mile, round-trip tickets to be one-sixth less, and standard passenger tariffs must be at once filed carrying these reductions into effect.

The Chief Traffic Officer of the Board reports to us that 'the territory in which the A. R. and I. operates is in all respects similar to that of the Canadian Pacific in Southern Alberta, and it is in my view that the A. R. and I. Company's freight rates, both standard and special, should not exceed those in effect for similar distances, and on similar commodities on the line of the Canadian Pacific between the Crowsnest Pass and its connection with that company's main line near Medicine Hat.' The impression I formed of the situation as developed during the argument, and from a perusal of the file and the great amount of correspondence attached to it as well as former reports of Mr. Hardwell, is in entire accord with his recommendation; and I have no doubt that it would have been much to the advantage of this company had it granted reasonable concessions upon some, at least, of the matters covered by the complaint.

The order of the Board will be:—

1. That the passenger fares shall not exceed three cents per mile; round-trip tickets to be sold by the company at one-sixth less. Standard passenger tariff to be filed carrying this direction into effect.

2. That the respondent company be required, where it has not already done so, to publish and file special tariffs of freight rates between all its stations on basis that shall not exceed those of the Canadian Pacific Railway Company for the same or similar distances and on the same commodities, as are or may be put into effect on the line of the Canadian Pacific Railway between the Crowsnest Pass and Coleridge on its main line.

1 GEORGE V., A. 1911

3. That the respondent company be required to put into effect a special tariff of class rates from Lethbridge to all of the company's stations, which shall not be higher than the special class rate tariff of the Canadian Pacific Railway from Lethbridge for the same or for the nearest equivalent distances.

4. The foregoing tariff to be prepared, filed and published within thirty days.

5. That the complaints relating to the express service and charges, furnished and made, by the respondents shall stand for disposition when the general express inquiry is dealt with; but the respondents must forthwith file their express tariff of tolls as required by the Railway Act.

6. That if the complainants find such steps necessary, they may at the expiration of six months, renew their complaints regarding deficient car service and passenger facilities.

Mr. Commissioner McLean concurred.

The Maritime Cornmeal Mills of St. John, N.B. v. The Canadian Pacific Railway Company.

Judgment Mr. Commissioner McLean, July 31, 1909.

The applicant, Mr. G. W. Stewart, whose mills are located at St. John, N.B., complains that cornmeal millers situated in Ontario and Quebec undersell him in New Brunswick and Nova Scotia. He alleges that:

The upper Canada mills get an export or ground in transit rate, which enables them to ship meal through Nova Scotia and New Brunswick at about 5½ cents cheaper than the millers here can manufacture it.

Mr. Stewart was unable at the hearing to re-inforce his complaint by any great amount of detailed information. He apparently assumed that his costs of production were as low as those of his competitors and that he utilized to as full an extent as his competitors the economies of advantageous buying. He held that any advantage afforded by open rates should be with him since his manufactured product has a shorter haul than that of his competitors in Quebec and Ontario. It may be noted in passing that Chatham millers complain of their inability to meet the competition of the St. John mills.

We are simply concerned with the question whether as a result of any species of manipulation of rates his competitors have the advantages he alleges. The careful investigation of the situation by the Chief Traffic Officer of the Board, shows that with the possible exception of the cornmeal mills located at Windsor the existing rates favour the St. John millers, corn moves from Detroit to Windsor for 2½ cents, while the rate on the finished product from Windsor to St. John is 15 cents, making a through rate of 17½ cents, the same as is paid by the applicant during the winter on his corn moving by rail from Detroit. In summer his corn moves for 2 cents less. No complaint was made regarding the Windsor mills.

The applicant seemed to regard the Oliver Milling Company as his principal competitor. This firm's elevator and mill are at Mile End on the Canadian Pacific Railway back to Montreal. The Intercolonial also handles their shipments, absorbing the Canadian Pacific Railway interswitching charge. The Intercolonial Railway denies that it has any private arrangement with this firm, and I doubt very much if the Canadian Pacific Railway has any. The Oliver Milling Company has no milling-in-transit privilege, except that they and other western corn millers on the direct routes to the seaboard have the Canadian Pacific Railway or Grand Trunk Railway grinding-in-transit arrangement on ex-lake corn, at the through rate with 1 cent stop-over added; but this privilege applies only on cornmeal exported to foreign countries other than Newfoundland and the United States. There is no evidence that this export arrangement is

SESSIONAL PAPER No. 20c

secretly manipulated to cover this New Brunswick and Nova Scotia out-put traffic, and I cannot see sufficient profit in the corn rates to the sea-board to prompt a rebate, even if the companies were so inclined.

The ex-lake corn rate from Georgian Bay ports and the elevators at Port Huron and Detroit to St. John is 9 cents per bushel, or 10.08 cents per 100 pounds. The lowest combination the Chatham miller can get by taking his corn from the Port Huron elevator is 20.89 cents; the best the Quaker Oats Company of Peterborough seems to be able to do is to take their corn from Midland and their combination is also 20.89 cents. The Oliver Milling Company would pay 12½ cents from the lake ports and 10 cents on the meal from Mile End, making their through rate from St. John 22½ cents. The applicant admitted that he could hold his own during the summer season.

On all-rail corn the rate Detroit to St. John is 17½ cents. If the western millers used Detroit all-rail corn the combinations would be Chatham 21 (6 plus 15), Peterborough 26 (11 plus 15). Mile End 23½ (13½ plus 10). The Oliver Milling Company's cornmeal rate from Mile End to St. John is 10 cents (until April 19, last it was 12½ cents); the St. John miller pays 4 cents more on his rail corn, therefore, the Oliver Milling Company would seem to be handicapped by 6 cents—and this is the firm to which the applicant frequently referred.

It has not been shown that a rebating arrangement is responsible for the disadvantage complained of by the applicant. The tariffs covering the traffic in question are in accordance with the law. Under these conditions there is no question of relief to be considered, and the complaint should be dismissed.

The Assistant Chief Commissioner concurred.

Order, dated August 7, 1909, dismissing the complaint issued.

The Canada Iron Corporation of St. Thomas v. Michigan Central Railroad Company.

This was an application of the Canada Iron Corporation, Limited, for an order directing the Michigan Central Railroad Company to refund to the applicants the sum of \$348, being the amount of overcharge for tolls charged for switching cars to and from the works of the applicants in the city of St. Thomas, together with interest at the rate of five per cent per annum on the excessive payments from the date of each payment down to the date of the refund.

Judgment, Mr. Commissioner McLean, August 4, 1909.

The applicants seek the redress given in the case of the John Campbell Company, Limited, of St. Thomas. In this case the Michigan Central Railroad inter-switching rates at St. Thomas were fixed at \$3 per car. The order directed the railroad company to refund to the complainant from July 19, 1907, the difference between this charge and the charge of \$6 per car, hitherto effective, with interest at 5 per cent.

In the present application the applicants allege that, bearing in mind the switching rates established by the foregoing order, they had been overcharged \$348 on 116 cars in the period September 29, 1906, and June 1, 1908, and application is made for the same redress as in the Campbell case.

While the tariff establishing the \$3 rate did not come into effect until June 4, 1908, the order of the Board in effect declared that, effective July 19, 1907, the reasonable switching charge was \$3 per car. It is well established that normally the Board has no power to make a retroactive order. Whatever justification there is for the particular action outlined above, must be found in the special circumstances of the case.

Examination shows that this case can be distinguished as not falling within the general rule. Normally the reasonableness of a rate is a matter of evidence. The judgment of the Chief Commissioner in this case makes clear that no evidence

1 GEORGE V., A. 1911

was submitted by the railroad to show that the rate was reasonable. It was in fact admitted to be unreasonable, for the only justification alleged was that it was 'reciprocal'—more exactly a 'retaliatory'—rate brought into existence because of the action of another railway. The rate, then, was recognized as an unreasonable one from the date when the Board took official cognizance of the situation—namely, on July 19, 1907.

It follows from this situation that other shippers at St. Thomas forwarding or receiving goods during the same period and using the same switching facilities have the right to the same rate as the Campbell Company. That is to say that in the case of the present applicants the reasonable rate beginning July 19, 1907, not September 26, 1906, as claimed, was \$3 per car.

As the situation presents itself to me, all we can say is that from July 19, 1907, the reasonable rate, as determined by the commission, is \$3 per car.

I am unable to see where the Railway Act, either by explicit phrase or by implication, authorizes the Board to order a refund. My position is reinforced by the decision of the Board in the *British-American Oil Company* case. In the steps leading up to this decision the question of the Board's powers in regard to refunds engaged our attention. In ruling that a particular rate was unreasonable, because of the special circumstances of the case, from a date in the past, the Chief Commissioner said:

We find that the legal toll chargeable upon the shipments in question was twenty cents per hundred pounds and that that toll is still in force, and the *respondents should be at liberty to refund the difference between that sum and the amount collected.*

This succinctly indicates the limit of our jurisdiction in this regard.

The Assistant Chief Commissioner concurred.

Plymouth Cordage Company v. Grand Trunk, Michigan Central and Wabash Railway Companies.

The Plymouth Cordage Company of Welland, Ontario, complained to the Board that freight rates from Welland, Ontario, to Canadian points are unjustly discriminatory as compared with rates from North Plymouth, Mass., Buffalo, N.Y., Auburn, N.Y., Detroit, Mich., and Chicago, Ill., and applied for a refund in connection with alleged overcharges.

Judgment Commissioner McLean, August 10, 1909.

A rate of 10 cents per hundred pounds on binder twine in carloads has, for some years, been in effect on the Grand Trunk, the Michigan Central, and Wabash Railways from Welland to Detroit and Port Huron. At the same time the rate from Welland to Sarnia and Windsor is 18 cents; other intermediate points are on a higher basis than the 10 cent rate. The applicants point to the rates from Auburn and North Plymouth as evidence of discrimination. From Auburn through this territory there is a rate of from 13 cents to 14 cents which is without exception, lower than the rate from Welland to the same mainline points up to and including Sarnia and Windsor. From North Plymouth the rates vary from 18 cents to 19 cents. Reliance is placed on the Auburn rate as showing discrimination. As evidence of apparent discrimination, reference may be made to the fact that the rate quoted from Auburn to St. Thomas, a distance of 104 miles, it is 15 cents. Application was made that the 10 cent rate, the Buffalo rate, be established as the maximum to intermediate points. It thus appears that the issue as made at the hearing was much narrower than that contained in the original application, in that it relied upon the Buffalo rate alone as the measure of the alleged discrimination.

In the course of the hearing, counsel thus narrowing the issue to that of Buffalo rates, based his application on Section 326 of the Railway Act, contending that

SESSIONAL PAPER No. 20c

the Buffalo rate, enjoyed by Welland, should be the maximum, thus placing the existing rates to intermediate points within the inhibitions of the 'long and short haul,' clause. It was also contended by counsel that the provisions of the order in the international rate case were by implication, applicable here. Various complications arise out of the inter-relation of classifications at the eastern and western gateways of the western peninsula of Ontario. These are set forth by the Chief Traffic Officer of the Board:

Binder twine, in carloads, is carried from Welland at the 5th class tariff rates in accordance with the Canadian classification—there is no commodity schedule. In the Official Classification twine of all kinds is rated 4th class in carloads; but in practice binder twine for harvesters is carried at 6th class throughout what seems to be the entire Central Freight Association and Trunk Line territories in the United States, also between United States points and points in Ontario on the direct lines between Niagara, Detroit and St. Clair rivers; to Ontario-points off these direct lines 5th class rates are charged. If the companies applied these lower than 4th class bases by specific commodity tariffs these would be in effect only from the few points where binder twine is actually manufactured; but they do it, instead, by an 'Exception to the Official Classification,' which makes the arrangement a general one from other points, including Buffalo, where no binder twine is made. From Buffalo, however, it is only the Michigan Central that applies the 6th class basis; the Grand Trunk does so only to Detroit, Port Huron, and United States points west—to its Canadian stations this company applies neither the 6th nor 5th, so that the complainants are wrong in making a comparison to Grand Trunk stations with anything lower than the full 4th class from Buffalo.

As regards the order of the Board No. 3258 (the International and Toronto Board of Trade cases), complainants take the position that if the Board had been asked to do so at the time that order would have been made to apply west-bound as well as east-bound. The order related to east-bound rates only, as the west-bound situation was not before the Board. In effect, however, by the rescission of clause '1' of the order, and by making the 'town, tariffs operative both ways, the provisions of the order, so far as the *class* rates are concerned, practically do apply in both directions. Scale 'A' of that order was framed so that the first-class rates from Windsor, as the maxima, should not exceed the first-class from Detroit, and the lower classes were graduated in accordance with the Canadian scale, for the Detroit tariff could not be made the standard without either adopting the Official Classification in Canada, or dislocating the Canadian rate scale. The first-class rate from Buffalo to Windsor and Sarnia being the same as from Detroit and Port Huron to Canadian points on the Niagara river, it follows that the class tariff from Welland to Ontario points west is, so far as the Board can make it, no higher than from Buffalo; the first-class rates in the majority of cases are, in fact, lower; and notwithstanding the different rate scales under the two classifications, the 4th class from Welland (which would apply were the Official Classification adopted without the 'exceptions') are but little higher than the 4th class from Buffalo. But here the complainants cite clause 'j' of order 3258, as amended by order 3617, and say that as the commodity rate on binder twine from Buffalo and Detroit to Port Huron is 10 cents, and on the Michigan Central is the rate to Windsor and Sarnia, also, that rate could not be exceeded to intermediate points if the Board would make the declaration that with respect to traffic from points on the Canadian side of the Niagara river order 3258 applies westbound also, so that commodity as well as class rates would be affected. Obviously the Board can do this; or it can decide to limit the scope of its inquiry to the particular commodity in question, namely, binder twine.

1 GEORGE V., A. 1911

I am not satisfied that we should make such a general declaration in advance of a wider investigation than is brought before us. Nor is it clear that it would afford adequate relief if a declaration were made as to the commodity rate on binder twine from Buffalo for, as the Board's Traffic Officer points out:

The railway companies might without injury to themselves, seeing that binder twine is not produced in Buffalo, cancel the application of the Exceptional Classification from that city, or by substituting commodity tariffs on binder twine, would exclude Buffalo as a shipping point.

Aside from the question, whether the Board should give the construction to the international rate order which is asked for, there is the more important question what injury, if any, is inflicted upon the applicant by the existing situation. As the matter presents itself to me, the question of the Buffalo rate has no bearing on the question whether the rates intermediate between Welland and Detroit and Port Huron are discriminatory. Buffalo does not manufacture binder twine and the rate is, in effect, a paper one. So far as the existing rate from Welland to Port Huron and Detroit is concerned it is in reality a rate for furtherance.

The Chief Traffic Officer of the Board has made a recommendation that the Welland rates to intermediate points be scaled down to the Auburn basis. After careful consideration I find myself unable to accept this recommendation.

As has already been indicated the rate quotations do, on the face of them, appear to show very grave discrepancies. In view of the fact that binder twine comes in free of duty, it might be expected that the lower rate basis would mean serious competition between Auburn and Welland. It is, however, alleged by the railways that there is no movement of binder twine from Auburn into Canada. The applicants do not controvert this statement. It follows, then, that under existing conditions and notwithstanding the lower rate basis there is no competition. The rate is, in effect, a paper rate and cannot be used as a measure of the reasonableness of rates from Welland to intermediate Canadian points. If a different state of facts arise, it would be pertinent to consider the Auburn rate.

I am of opinion that the complaint in regard to discrimination should be dismissed.

APPLICATION FOR REFUND.

The Chief Traffic Officer of the Board states:

Reparation.—The claim for reparation covers nine carloads, namely, two to Wallaceburg, one each to Dresden, Wheatley, Ridgetown, Chatham, Essex, Tilbury, and St. Thomas. With the exception of the shipments to Wallaceburg, Dresden, and Wheatley, the rates charged were in accordance with the tariffs lawfully published and filed, and the Railway Act does not give the Board the authority to order reparation in such cases. To Wallaceburg, Dresden, and Wheatley, however, the rate charged, namely, 20 cents per 100 pounds, was taken from a commodity tariff issued in June, 1907, (C.R.C. 977) which ought to have been amended when the Michigan Central issued its 'town' tariff from Welland under the provisions of order 3258. Having drawn the attention of the company's division freight agent at Buffalo to this omission, he writes me that a supplement correcting the tariff is being issued. The lawful rate to these three points was the 5th class rate of 18 cents per 100 pounds as prescribed by the Board and in accordance with the Canadian Classification. As the company's freight claims agent has taken the ground that the rate charged was the legal rate, the company should be directed to refund the over charge of 2 cents per 100 pounds on these three carloads.

SESSIONAL PAPER No. 20c

On the four cars shipped to Wallaceburg, Dresden and Wheatley a rate of 20 cents was charged when the legal rate was 18 cents. The company should be authorized to refund the difference between the 18 cent rate and the 20 cent rate as charged.

The Assistant Chief Commissioner concurred.

Order, in accordance with judgment, dated August 10, 1909, issued.

Later application was made on behalf of the complainant for a re-hearing of the complaint upon the ground that the judgment given was opposed—to the facts, the law in the matter and the general public interests. This application was heard at the sittings of the Board held in Ottawa, March 10, 1910. Judgment reserved.

Canadian Freight Association v. Fruit Growers' Association of Ontario.

In October, 1904, the Board gave judgment in the complaint brought by the Ontario Fruit Growers' Association regarding freight rates on fruit. Section 'B' of the operative portion of the order based on this judgment is as follows:—

That fruit described in the current Canadian Freight Classification as 'Fruit Fresh' be carried in baskets, boxes, or crates on the following described reduced basis of rates, viz:—

Between all stations in Ontario, east of Sault Ste. Marie and Fort William, and between all stations in Quebec, and interprovincially between Ontario and Quebec, also from stations in Ontario and Quebec to stations in New Brunswick and Nova Scotia, at 4th class rates in carloads of not less than 20,000 lbs., instead of 3rd class as at present, and at second-class rates in less than carload lots of 10,000 lbs. or over, instead of first-class as at present. Also from stations in Ontario and Quebec to Winnipeg, Portage la Prairie and Brandon, at 4th class rates in carloads of not less than 20,000 lbs. instead of at 3rd class as at present.

It is understood, in all cases, that the total charges on a smaller lot shall not be greater than the total charges on a larger lot at the next lower rate as indicated above.

The present application is for an order rescinding that part of section 'B' fixing the rates on fruit in car lots from eastern Canada to Winnipeg, Portage la Prairie and Brandon.

In view of the exhaustive presentation of the matter made at the hearing of the original application in 1904, no oral evidence was offered, the parties being permitted to present their argument in writing.

Judgment of the Board delivered by Mr. Commissioner McLean, September 16, 1909:—

The Canadian Freight Association bases its application on various grounds.

(1) *Development of other Distributing Centres.*—It is alleged that in addition to Winnipeg, Portage la Prairie and Brandon, there are other western points which are now in a position to receive fruit in carloads for redistribution as well as for local consumption. The Ontario Fruit Growers' Association agrees with this. The Freight Association is, however, of the opinion that this changed condition no longer justifies the points mentioned receiving special treatment. It is feared that the existing rate situation will create demands for rate reductions in the further west. It is stated that:

The special rates then granted have made the matter one of serious embarrassment, with the result that if the order of the Board cannot be amended as to these points, the revenue of the railways will be materially and unnecessarily depleted to all of their other territory west of Fort William.

The rates which the Canadian Freight Association complains of were arrived at as a result of much correspondence between Messrs. Loud and Bunting. In a

1 GEORGE V., A. 1911

letter on file under date of September 2, 1904, Mr. Loud said, in referring to the rate concession:—

It is not all the fruit growers asked, but it is as much as we feel we can consistently grant them——

It also appears, from a letter on file under date of October 1, 1904, that the Fruit Growers' Association desired to have the rate concessions apply to all towns and cities of Canada capable of receiving carloads of fruit. Here again a compromise was arrived at.

It would, therefore, appear that in these compromises the railways had ample opportunity to forecast the conditions now complained of. Whether or not rate concessions on fruit should be made to points west of Portage la Prairie and Brandon is a matter which is not material to the present application. I am unable to hold that rates so arrived at by compromise should be removed because it is complained that rate difficulties may arise at points further west.

(2) *Statement that rates granted in 1904 produce combinations lower than the existing third-class through rates to a very large number of points.*—A statement was submitted showing a comparison of existing through rates with possible combinations. The evident intent of this statement proceeds from the idea that where there is such an excess of a through rate over a rate combination based on the rates granted in 1904, the higher rate may be successfully attacked as inherently unreasonable. This is not conclusive. It appears to me that an analogous situation was dealt with by the Board in its decision in *Through Rates v. Combination of Locals*, where in referring to commodity rates it was said:—

A commodity rate is established because of special conditions of volume of traffic, competition, &c. I for one cannot conclude in advance of an investigation that such a commodity rate in respect of traffic moving between two given points is in any sense the measure of the reasonableness of a through rate to a point beyond. The railway should be free to exercise its discretion, subject always to meeting any complaints which may arise in regard to the longer distance rate.

(3) *It is alleged that the rates charged on fruit are unprofitable.*—In support of this contention it is stated:—

. . . . the rate to Winnipeg from Toronto and common points is 66 cents per 100 lbs. Deducting cartage of 3 cents per 100 lbs.—as warehouse delivery is taken, *i.e.*, cartage is not performed—the rate is 63 cents. The lake and rail rate on articles of iron from Toronto to Winnipeg is 65 cents, or 63 cents with cartage deducted. The minimum weight on articles of iron is 24,000 lbs., but, in practice, the average load is at least 30,000 lbs. The result is that the railways are carrying fruit at a less revenue per car than the coarser articles of iron, in addition to which fruit is of a perishable nature and had to be transported in refrigerator cars and given expedited service, and in many instances the refrigerator cars returned to the east empty.

Admitting the existence of low earnings in fruit, it does not appear that this is pertinent to the argument that rates should be raised. For the comparison between fruit rates and iron rates was as much in point in 1904 as it is now. Nor is it alleged that the fruit tonnage has not increased since 1904.

(4) *Increase of Fruit Tonnage Independent of Low Rates.*—The answer of the fruit shippers shows that there have been great increases of fruit tonnage since 1904. This is admitted by the railways. The fruit shippers show that whereas, to cite one example, the St. Catharines Cold Storage and Forwarding Company shipped one car to the west in 1904, in 1908 it shipped 68 cars. It is also shown that in the district around St. Catharines the shipping associations have grown from three to thirty-five in the period of 1904 to 1908, and that the majority of these are selling their produce in the western provinces. Reference is made to the expanding trade

SESSIONAL PAPER No. 20c

in grapes. For example, last year one western firm purchased and shipped from Ontario points one hundred cars of grapes which were shipped over the Grand Trunk, Chicago and Northwestern and Canadian Northern. Reference is also made to the development during 1909 of strawberry shipments to the west. It is admitted by both parties that there has been increase of tonnage.

While the Canadian Freight Association recognizes this increase of tonnage, it minimizes the effect of the rate decreases by an argument which, to my mind, is more ingenious than convincing. It is stated that:—

the railways do not believe the reductions made in the rates at that time have, in themselves, in any way increased the volume of traffic, and that other points which did not receive the benefit of any reduced rates would show a relative increase indicating that it is the increase in population and changed conditions in the western country rather than any reduction in rates, that has brought about any increased movement in the fruit traffic.

This does not afford any safe ground on which to build a conclusion. It is pure argument, not statement of facts. In the absence of disproof it would appear to be common sense to assume that the lower rate basis has had some effect in developing the demand for fruit.

The changes in commercial conditions to which reference is made by the Canadian Freight Association, do not appear to be sufficient to justify our granting the application. In view of the exhaustive discussion, both oral and written, which led up to the arrangement now before us, I am unable to see why, in the absence of more exact information than is before us, this well considered compromise should be departed from.

The application should therefore be dismissed.

Application dismissed accordingly.

Bonners' Ferry Lumber Company, Limited, v. The Great Northern Railway Company.

The complainants allege violation of the 'long and short haul' clause of the Railway Act.

Judgment Commissioner McLean, September 27, 1909:—

The Bonners' Ferry Lumber Company, of Bonners' Ferry, Idaho, purchased some small lots of goods from the branch of the Ashdown Hardware Company located at Nelson. These goods were shipped from Nelson and billed by the initial carrier to Gateway, B.C. The depot at Gateway is on the international boundary; part of the depot being in British Columbia and the other part in Montana.

Gateway is a point intermediate to Fernie. The short line Canadian Pacific Railway mileage from Nelson to Fernie is 197 miles, while by the Great Northern route over which the goods moved, the distance from Nelson to Fernie is 476 miles. In meeting the short line mileage no necessary obligation is created to apply the same basis on intermediate distances not subjected to the same short line mileage competition.

It is stated that the applicants were assured that the shipments would move from Nelson to Gateway, B.C., on the Fernie rate. The goods moved on this rate and payment of charges on this basis was apparently accepted. Later there was a refusal to protect this rate and the applicants were billed for under charges. No tariff basis either for so applying the Fernie rate or for the undercharges over which contest arises is anywhere before us. The applicants contend that the charging of a higher rate for the intermediate distance to Gateway, B.C., as compared with a lower rate on the longer haul to Fernie is in violation of the 'long and short haul' clause contained in subsection 5 of section 315 of the Railway Act. But, the Fernie rate is a competitive one, and this contention advanced by the applicants must fail.

1 GEORGE V., A. 1911

The question is, what, if any, rate was available for the movement between Nelson and Gateway, B.C. The Fernie rates and the rates the applicants were subsequently asked to pay are as follows:

	Fernie rate.	Rates subsequently billed.
	cts.	\$ cts.
1st class.....	83	4 32
2nd ".....	69	1 83
4th ".....	41	1 30

The Assistant Traffic Manager of the Great Northern Railway states that the rates from Nelson to Gateway, B.C., are based on combinations on Spokane. It also appears that a basing point rate made up of a combination of Nelson-Fernie and Fernie-back to Gateway, B.C., may be built up. Goods might move under either of the following combinations:

	COMBINATION ON FERNIE.		COMBINATION ON SPOKANE.	
	1st Class.	2nd Class.	3rd Class.	4th Class.
	\$ cts.	\$ cts.	\$ cts.	\$ cts.
Nelson-Spokane.....	1 25	1 06	0 88	0 75
Spokane-Gateway, B.C.....	1 10	0 94	0 77	0 66
	2 35	2 00	1 65	1 41
Nelson-Fernie.....	0 83	0 69	0 55	0 41
Fernie-Gateway, B.C.....	0 54	0 48	0 38	0 29
	1 37	1 17	0 93	0 70

From the examples given above, it will appear that neither of the combinations will explain how the rate dealt with in the bill for undercharges was arrived at.

To my mind the material point is, the admission of the Assistant Traffic Manager of the Great Northern in his letters of August 5, and August 10, 1909, on file with the Board, that the Great Northern has no through rate between Nelson and Gateway, B.C.

Section 335 of the Railway Act states that:—

When traffic is to pass over any continuous route from a point in Canada through a foreign country into Canada—and such route is operated by two or more companies whether Canadian or foreign, the several companies shall file with the Board a joint tariff for such continuous route.

The matter falls within the scope of this section.

(1) There is a continuous route.

(2) The provisions as to operation by two or more companies, whether Canadian or foreign, are met because we have a route made up as follows:

- (a) Nelson and Fort Sheppard Railway to the boundary.
- (b) Spokane Falls and Northern, thence to Spokane.
- (c) Great Northern, thence to Rexford.

SESSIONAL PAPER No. 20c

(d) Montana and Great Northern, thence to the boundary.

(e) Crowsnest Southern, to destination.

The mandatory provision of this section that a joint tariff shall be filed as a condition precedent to the traffic passing over the continuous route in question has not been complied with. Not only is there not at present a through rate between Nelson and Gateway, B.C., there never has been filed with the Board a tariff of class or other rates between these points. The collection of tolls between Nelson and Gateway, B.C., is, until Section 335 is complied with, in clear violation not only of this Section, but also of Section 314, subsection 5:

Nor shall the company charge, levy or collect any money for any service as a common carrier except under the provisions of this Act.

The tariffs on file with the Board show that no joint tariff from Nelson covers the stations on the Crowsnest Southern from Gateway, B.C., to Cedar Valley Lumber Company's spur inclusive. Whether traffic passes between Nelson and these points does not appear.

From the correspondence on file it would appear that the neglect to comply with the provisions of Section 335 is to some extent due to a confusion as to the respective terms of the Railway Act and of the Act to regulate commerce. No order need at present issue. It is sufficient to state that until the provisions of Section 335 are complied with, it is illegal to collect tolls on the traffic falling within the scope of the section.

Rogers v. The Canadian Express Company.

The complaint was that on June 9 a skiff and equipment were delivered to the Dorval, Que., agent of the Canadian Express Company for delivery to complainant at Aylmer, Que. They did not arrive in due course, and upon inquiry at the respondent company's office at Ottawa it was learned that they had been shipped to Aylmer, Ont. The receipt received from the agent of the company at Dorval described the destination as 'Aylmer, Ont., near Ottawa.' Complainant demanded the company to deliver the skiff in Ottawa, the office of the company nearest the point of address, at which point she alleged the company agreed to deliver it, and stated that she would pay only the charges from Dorval to Ottawa direct. The boat was accordingly sent from Aylmer, Ontario, to Ottawa, but before the company would deliver, demanded the payment of express charges amounting to \$17.25. This amount was paid under protest and complainant applies to the Board for redress.

The Express Company states that the shipment was unaddressed when brought to the station at Dorval and was shipped to Mrs. Rogers, Aylmer, Ont., and that they were justified in the carriage of the shipment to that point.

Judgment, Chief Commissioner Mabee, November 11, 1909.

I have gone through the correspondence filed in this matter, and it is clear the Board has no jurisdiction to entertain the complaint, and had the matter been brought to my attention earlier, I would have stopped the proceedings at the inception and left the complainant to obtain redress, if entitled to any, in the courts. As the matter stands it is the dispute as to who is responsible for the skiff being way-billed to the wrong address—assuming that if the inquiry were pursued by the Board it was found to have been the neglect of the agent of the Express Company, the Board could grant no redress because it is not empowered by the Railway Act to direct Express Companies to make compensation for the negligence, carelessness, or oversight of its officers or agents—these matters remain for the courts to consider.

It will not be gathered from the foregoing that any opinion is being expressed as to who is responsible for the error in way-billing, and reference is made to the matter merely for the purpose of showing that the Board has no jurisdiction over the claim.

1 GEORGE V., A. 1911

The complainant must be left to her rights in the courts.

It appears some error arose in computing the express charge, and that feature of the contest is the only one the Board could investigate. The company offers to refund the excess above the proper toll for the round-about course the skiff took, and so nothing is left for the Board to do but refuse to interfere. If complainant can place the fault upon the company for the error, the court can afford her adequate relief.

The Columbia Flouring Mills Company v. The Canadian Pacific Railway Company.

The Columbia Flouring Mills Company complained to the Board that the Canadian Pacific Railway were not complying with section 236 of the Railway Act with respect to the company's railway over the crossing at Mill street, in the town of Enderby, B.C.

Section 236 provides that where the railway crosses a highway at rail level the top of the rail may rise above or sink below the level of the highway, to the extent of one inch without being deemed an obstruction.

Judgment, Chief Commissioner Mabey, April 27, 1909.

Where the track of the respondent crosses Mill Street in the city of Enderby, B.C., the rails are in some places more than $4\frac{1}{2}$ inches above the level of the street. Under the law, upon this state of facts, the company is obstructing the street. The applicants allege they have appealed many times to the company to remedy the matter but are always met with refusal. At the hearing it was alleged by counsel for the respondent that there was no street at the point in question, the company being then required to overcome the *prima facie* evidence of the highway, being such in fact by reason of public user, now admit it to be a street, and alleges that it finds it has no title to any portion of what is known as Mill Street. Now, it is apparent that the company has been in error in this matter from the beginning, and from the stupidity or unreasonableness, or both, upon the part of some one, the complaints have for a long time been put to much trouble and annoyance in carting their mill stuff over this obstruction and have been compelled to appeal to the Board, and we have had the trouble of listening to argument, and of correspondence since the hearing. The respondents have had the trouble and expense of attending the hearing, the secretary has been to trouble in looking the matter up since the case was heard. Now, I would like to know what is the sense of all this? Had not the company some one in authority near the spot to see that this complaint was looked into and rectified if the company were in the wrong? So far as I am concerned I do not intend to again be put to all this trouble over so small a matter, and if railways propose to have such trifling complaints come to the Board from all over the country, when the slightest investigation would have shown them to be in the wrong, the Board will adopt the policy of ordering the railway companies to pay the costs of complainants when they succeed; indeed, in this case had the complainants been put to the expense of employing counsel or attending the hearing, the respondents would have been ordered to pay their costs.

An order will go requiring the respondents to forthwith change the location of their rails where the railway crosses Mill street, in Enderby, so the top of the rails shall not rise above or sink below the level of the highway, to the extent of more than one inch.

Mr. Commissioner McLean concurred.

Order dated March 5, 1910, directing the railway company to forthwith change the location of its rails, issued in accordance with the judgment.

SESSIONAL PAPER No. 20c

Bell Telephone Company v. Nipissing Power Company.

The Bell Telephone Company applied to the Board under section 246 of the Railway Act for an order restraining the Nipissing Power Company, of Toronto, Ontario, from crossing the wires of the applicant between Powassan and North Bay along the highway known as the Nipissing road with their high tension wires until permission of the Board had been obtained.

Judgment Chief Commissioner Mabee, November 17, 1909:—

This matter is by no means free from doubt, but my brother commissioner is strongly impressed with the merits and is of the opinion that the order should go.

It may be as well to give briefly the reasons why we come to the conclusion that the application should be granted.

The foundation of the Railway Act requiring power companies to get the leave of the Railway Board before they are permitted to cross railways is, I take it, that the crossing of the high tension power wire may be properly guarded with the view of eliminating danger and risk to the public in using the railway. The practice has been that where power wires cross railways under the authority of the Dominion Railway Board, application is made for leave to cross, and after a very great amount of careful study by the electrical engineer of the Board, standard specifications have been adopted that are intended to eliminate, as far as possible, the danger at the crossing, in the event of short circuits or breaks in the high tension power wire.

Now it is not denied that the like or similar danger exists where the high tension wire crosses a telephone line, and it is clear that the necessity for the protective features connected with the high tension wire exists to the like or the same extent that it does where it crosses a railway. So we have the fundamental feature, namely, the protection of the public, in both instances. So that if it was proper in the interest of the public to guard the railway where the high power wire crosses, it is equally necessary to guard the telephone line at the same point.

But, of course, the necessity for this does not give the Board jurisdiction unless the Railway Act is reasonably clear in conferring jurisdiction at points like the one in question. Now the section that has been referred to by the counsel for the applicant, No. 5 of 7 and 8 Edw. VII., makes the Railway Act generally applicable to telephone companies with the exception of certain named sections that appear in the body of section 5. It is left to the Board to say, it seems to us, under the broad provisions of section 5, what sections of the Railway Act (other than those that are expressly named) may reasonably be applicable to telephone companies. If it is in the interest of the public to prevent danger to life and property that protective feature should be required where a high power wire crosses a telephone wire, why is it not reasonable that the same protective features should be required at a crossing of that kind as are required where a high power wire crosses a railway line? The section touching wires, 246 of the Act, says that no lines of wires for telegraphs, telephones or for the conveyance of light, heat, power or electricity shall be erected, placed or maintained across a railway without the leave of the Board. I am loth to come to the conclusion, still it seems to me that it is not unreasonable to say that a clause of that kind, appearing in the Railway Act, should have application to a telephone line as well as to a railway line. Some discussion has been had because the respondent here is a provincial corporation. No one in the country entertains stronger views than I do as to the desirability of the line of jurisdiction between the federal and provincial authorities being closely lived up to. Personally, I am of the opinion that the provincial sphere of legislation should be supreme and should be left untouched by any federal power or any federal court or any federal controlling tribunal. But of necessity where a concern incorporated under provincial authority crosses a steam railway under the jurisdiction of Parliament, application has to be made by the provincial company to the Railway Board of Canada for leave to cross

1 GEORGE V., A. 1911

that federal railway. The same principle applies to the present position. The Nipissing Power Company is incorporated under the Ontario Joint Stock Company's Act. While the Railway Board of Canada should in no way trespass upon the powers conferred by the Ontario statute upon the Nipissing Power Company, yet when the Nipissing Power Company desires, in the furthering of its works, to cross a railway under the jurisdiction of the Parliament of Canada it is compelled to come to the Railway Board for the purpose of getting leave to so cross and this Board has made orders of that kind upon the application of the Nipissing Power Company. If we are right in our construction of the Act, and if these clauses have reasonable application to a telephone company, then it is only asking the Ontario corporation to do the same thing, to take the same steps and follow the same procedure with reference to this telephone company, which is a federal creature, that it has to do with reference to the crossing of a Dominion railway obtaining its charter from the same federal source; so it does not seem that arriving at the conclusion that these sections have application to a telephone company in any way trenches upon the rights conferred by the legislature of Ontario upon the respondents. It is merely requiring them to take the same procedure, the same steps where they desire to extend their works across this telephone line that it is admitted upon all hands they have to take where they are desiring to extend their wires across a Dominion railway. For these reasons we are of the opinion that we are compelled to hold that this section is applicable and that the order should be granted.

If the respondents so desire, in so far as there are any legal questions arising in this application, they may have leave to go to the Supreme Court to have it finally determined whether we are right in the view that we take, and, expressing a personal and selfish view, I shall not be disappointed if the Supreme Court does not form the same opinion of it that we have.

Mr. Commissioner Mills concurred.

Baker, Reynolds & Company v. The Canadian Pacific Railway Company.

The Baker, Reynolds Company applied to the Board for an order directing the respondent company to refund what they alleged to be a direct over-charge on a large number of cars of lumber shipped from Pacific coast points over the respondent company's railway to Brownlee, Tugaski and Outlet, Saskatchewan, stations upon what is now operated as the Tuxford branch of the Canadian Pacific Railway, and which connects with the main line at Moosejaw. The published rates from Moosejaw were 49 cents on cedar lumber and shingles and 40 cents on fir and spruce lumber. The company's first tariff was published to Tuxford April 11, 1908, at the same rates as to Moosejaw; to Brownlee and Tugaski, September 30, 1908, and to Outlook December 2, 1908. The rates to these three stations being the same on fir and spruce as to Moosejaw and Tuxford, namely, 40 cents, and one cent over Tuxford and Moosejaw or 50 cents on cedar lumber and shingles.

The lumber in question was way-billed to Tuxford, as the end of the operated line, with the addition of 2 cents to Brownlee and 3 cents to Tugaski and Outlook. It is the excess of the through rates over the published and filed as for operation that is complained of.

Counsel for the respondent company contended that where operation of branch line has not been authorized by the Board at the time the construction tariffs were issued, it would be useless to file them, as the Board would have no authority to approve them, and that it was not necessary that such tariffs be filed with the Board.

Judgment Chief Commissioner Mabey, dated December 17, 1909:—

Section 261 provides that no railway, or portion thereof, shall be opened for the carriage of traffic, *other than for the purposes of the construction of the railway by*

SESSIONAL PAPER No. 20c

the company, until leave therefor has been obtained from the Board. This makes it clear that a railway company cannot use the road in course of construction for other purposes than carrying construction material.

Subsection 7 of section 261 provides that the Board, upon being satisfied that public convenience will be served thereby, may after obtaining a report of an inspecting engineer, allow the company to carry *freight* traffic over any portion of the railway not opened for the carriage of traffic generally. This might apply where the company was anxious to convenience settlers before the road was ready for opening generally.

Section 327 provides for filing standard freight tariffs, and subsection 4 prohibits the company from charging any toll until the provisions of the section have been complied with.

Subsection 5 of section 314 prohibits a company charging, levying, or collecting any money for any service as a common carrier, except under the provisions of the Railway Act.

In the face of all this, it is said a company may carry traffic during construction without the road having been inspected and without tariffs being filed. This contention is entirely untenable. The tolls charged in the case in question were all illegally collected and in violation of the express provisions of the statute. It is said that the company do not desire to be hampered and delayed by carrying any sort of traffic during construction, and that it is done only to convenience settlers in those new districts. With this position, of course, one is in entire sympathy; but there is no law that I know of that permits it, except upon compliance with the terms of the Act. Tariffs are made out entitled 'Canadian Pacific Railway *Construction Department*,' 'Canadian Northern Railway Construction Department in connection with Canadian Northern Railway.' These are supposed to apply to lines during construction and are not filed with the Board. I know of no authority in the Act for this practice, and none has been pointed out to us. It is all illegal; moneys paid to the companies for service under these alleged tariffs have been illegally levied. The persons responsible for the issue and use of these tariffs have subjected themselves to the penalties provided for by the Act. Where is there any authority to issue tariffs in the name of a construction department? Is this a department of the railway company or is it a firm of contractors? And, if the latter, where is there authority to operate a railway, issue tariffs and collect tolls? If it exists it must be somewhere else than in the Railway Act.

I have before me a tariff issued by what is called the construction department of the Canadian Pacific Railway Company. It has printed upon it the following: 'During construction of Sheho extension—pending the completion and *taking over by this company* of the extension east of Lanigan (now under construction), for the convenience of settlers, &c., &c.' I have another Canadian Northern tariff attempted to be made applicable to its Mayfield extension during construction with the words 'pending the completion and taking over by this company, &c., &c.' printed upon it. This tariff has also printed upon it at the foot '*MacKenzie, Mann & Company, Limited, Contractors*,' along with the names of the traffic officers of the Canadian Northern Railway Company. I do not know why this practice has been adopted, or why it is continued in the face of the Act.

Let copies of Mr. Hardwell's report and of this memorandum, as well as Mr. McLean's, be sent to the complainants and the Canadian Pacific, Canadian Northern, and the Grand Trunk Pacific Railway Companies.

The Assistant Chief and Mr. Commissioner McLean concurred.

1 GEORGE V., A. 1911

*The Canadian Northern Railway Company v. The Grand Trunk Railway Company
and the Canadian Pacific Railway Company. Muskoka Rates.*

Judgment, Chief Commissioner Mabee, November 22, 1909:

The original application of the Canadian Northern Railway Company was as follows:—

‘The Canadian Northern Ontario Railway Company, hereinafter called the ‘Applicant Company,’ hereby applies to the Board for an order, under Section 317 of the Railway Act, directing the Grand Trunk Railway Company and the Canadian Pacific Railway Company, hereinafter called the ‘Respondent Companies,’ to provide facilities for passengers desiring to travel from or through points on the lines of the respondent companies, or either of them to points on the line of the applicant company and its connections, and to issue tickets at through rates accordingly.

‘2. The applicant company states that the respondent companies decline to allow railways in the United States to issue through tickets to stations on the applicant company’s railway and connections, using either the Grand Trunk Railway or the Canadian Pacific Railway to Toronto, and decline to permit the issue of through tickets to points on the applicant company’s railway and connections via Toronto from stations in Canada east of the St. Clair frontier.

‘3. The applicant company submits that the through rail tourist fares agreed to and from the Niagara frontier on business for Sparrow lake, Muskoka lakes, Parry Sound, and other territory reached directly by the applicant company and its connections, and which now apply via Grand Trunk or Canadian Pacific rail route to Toronto and thence either Grand Trunk or Canadian Pacific Railways and connections to destinations, should be made to apply via Grand Trunk or Canadian Pacific railways rail route to Toronto and thence via the applicant company’s railway and connections to destination, and that the divisions on tourist fares from Niagara Falls which the Grand Trunk and Canadian Pacific Railways accept on tourist business interchanged between these lines at Toronto over their rail route should be accepted also by the Grand Trunk and Canadian Pacific railways on tourist traffic ticketed via the applicant company’s railway and connections from Toronto, so that no obstruction be offered to the public desirous of using the applicant company’s railway as a continuous line of communication.

‘4. The applicant company states that up to the present time the respondent companies have excluded the applicant company from the list of railways with which they are interchanging passenger traffic. Canadian Pacific Special Circular No. 4628, C.R.C. No. E 673, dated November 26, 1907, dealing with Christmas and New Year’s fares shows that passengers desiring to travel from points on the Canadian Pacific Railway to stations on other Canadian lines, with the exception of the applicant company’s railway, can purchase through tickets to destination, and like conditions exist with respect to instructions issued by the Grand Trunk Railway Company, as shown by Grand Trunk Railway Circular No. 2177, C.R.C. No. E. 653.

‘5. The applicant company further states that the conditions existing with respect to Christmas and New Year’s fares as above explained apply generally on other passenger business during other portions of the year, as hereinafter explained.

‘6. The Canadian Pacific Railway Company permits lines in the United States and their agents in eastern Canada, when passengers so desire it, to issue through tickets to such points as Beaverton, Ontario, and Washago, Ontario (which are reached by both the Grand Trunk Railway and the applicant company’s railway), via the Canadian Pacific rail route to Toronto and thence via Grand Trunk from Toronto, but does not permit similar ticketing via the applicant company’s railway, the all rail fares from Niagara Falls to Beaverton and Washago being shown on the Niagara frontier summer rates committee tariff for season 1908 as applying only via Toronto and Grand Trunk Railway.

SESSIONAL PAPER No. 20c

7. The Canadian Pacific Railway Company permits lines in the United States and their agents in eastern Canada, when passengers so desire it, to issue through tickets to Severn (which is the Grand Trunk port for resorts on Sparrow lake), via Canadian Pacific rail route to Toronto and thence via Grand Trunk, but does not permit similar ticketing via Toronto, and the applicant company's railway to Hamlet or Sparrow lake (which are the applicant company's ports for resorts on Sparrow lake), although such territory is reached only by the Grand Trunk and applicant company's railways, thus placing obstructions in the way of passengers desiring to use the Canadian Pacific railway route to Toronto and thence the applicant company's railway to Sparrow lake or Hamlet.

8. The Canadian Pacific Railway permits lines in the United States and their agent in eastern Canada, when passengers so desire it, to issue through tickets to ports on Muskoka lakes via Canadian Pacific Railway rail route to Toronto and thence via Grand Trunk Railway to Muskoka Wharf (which is the Grand Trunk port for Muskoka lakes), and thence via Muskoka Lakes Navigation Company to destination, but does not permit similar ticketing via Toronto and applicant company's railway to Bala Park or Lake Joseph (which are the applicant company's ports for Muskoka lakes), and thence Muskoka Lakes Navigation Company to destination.

9. The applicant company states that during the tourist season of 1907 through tickets were issued by certain United States lines to stations on the applicant company's railway via Niagara Frontier and Canadian Pacific rail route to Toronto, thence via the applicant company's railway to destination to passengers desiring to travel in that way, but that the United States lines were compelled to discontinue the issue of such tickets via the applicant company's railway.

10. That the Grand Trunk Railway Company permits lines in the United States and their agents in eastern Canada, when passengers so desire it, to issue through tickets to points on the Canadian Pacific Railway via various junction points, but does not permit similar ticketing to points on the applicant company's railway.

11. That the Grand Trunk Railway Company permits lines in the United States and their agents in eastern Canada, when passengers so desire it, to issue through tickets to points on Muskoka lakes via Grand Trunk to Toronto, thence Canadian Pacific Railway to Bala (which is the Canadian Pacific port for Muskoka lakes), and thence via Muskoka Lakes Navigation Company to destination, but does not permit similar through ticketing via Grand Trunk to Toronto, thence via the applicant company's railway to Bala Park or Lake Joseph (which are the applicant company's ports for Muskoka lakes), and thence via Muskoka Lakes Navigation Company to destination.

12. That the Grand Trunk Railway Company permits lines in the United States and their agents in eastern Canada, when passengers so desire it, to issue through tickets to Parry Sound via James Bay Junction, and thence via the applicant company's railway, thus giving the Grand Trunk Railway Company the long haul (the applicant company's haul from James Bay Junction to Parry Sound being only four miles), but does not permit, even when passengers desire same, the issue of through tickets to Parry Sound via Toronto, and thence via the applicant company's railway.

13. The applicant company is now issuing to passengers who desire same through tickets from all its stations to points on the Grand Trunk and Canadian Pacific Railways and connections via either James Bay Junction or Toronto, as desired by the passengers, and submits that this arrangement should be reciprocal.

14. The applicant company states that the question of through ticketing has been taken up by it with the respondent companies, but that they have both refused to accede to the request of the applicant company for such through ticketing.

15. The applicant company states that the refusal of the respondent companies referred to has caused considerable inconvenience to the travelling public, both from the United States and from points in eastern Canada, by compelling the passengers

1 GEORGE V., A. 1911

to purchase local tickets and check baggage to Toronto only, where they are compelled to buy other tickets over the applicant company's railway and have their baggage rechecked to final destination, thus preventing passengers from using the two lines of railway as a continuous line of communication, as contemplated by the Railway Act.

16. The applicant company submits that the refusal of the respondent companies to allow their agents and other lines to issue through tickets to passengers desiring to travel from or through points on the lines of the respondent companies, or either of them to points on the line of the applicant company and its connections is unjust discrimination against the applicant company and contrary to the interest of passengers desiring to purchase such through tickets, and is contrary to the provisions of the Railway Act, and the applicant company therefore applies for an order to restrain the respondent companies from continuing such discrimination, and to compel the respondent companies to issue through tickets as mentioned in paragraph 1 hereof.

This complaint was heard on April 23, and the following order was made:—

‘Upon the hearing of counsel for the applicant company and the respondent companies, the evidence adduced, and what was alleged, and upon the report of the Chief Traffic Officer—

‘1. It is ordered that the applicant company and the respondent companies be, and they are hereby, required to agree upon, publish and file tariffs of joint passenger tolls, arranging the proper apportionment thereof, to apply on passenger traffic interchanged between the said companies, other than that having its origin at the respondent companies' points or with companies that connect with and deliver to the respondent companies, and destined to points common to the applicant company's and the respondent companies' lines.

‘2. And it is further ordered that the other requests contained in the application herein, be, and the same are hereby refused.’

Counsel for the applicant, upon the argument of the original case, asked for an order compelling the respondents to permit American lines to issue through tickets entitling passengers to change to the applicant's lines at Toronto, but it was thought that the jurisdiction of the Board to work out such an order was doubtful, and so that relief was not granted.

Later on some difference of opinion arose between the companies as to the meaning and scope of clause 1 of the above order, and in October a ruling was made by the Board which, I undertsand, has been complied with.

On October 28 a complaint came to the Board from the Keystone Camping Club of Pittsburg, Pennsylvania, to the effect that its members could not purchase through tickets from Pittsburg to points upon the lines of the Canadian Northern. After a large amount of correspondence, this matter, together with a number of similar complaints from other persons came on for hearing on April 28, when the following order was made:—

‘Upon hearing the application at the sittings of the Board held in the city of Toronto on April 28, in the presence of counsel for the Canadian Northern, the Grand Trunk, and the Canadian Pacific Railway companies, no one appearing for the complainants at the hearing, and what was alleged by counsel aforesaid—

‘It is ordered that the Grand Trunk and the Canadian Pacific Railway companies be, and they are hereby, directed to honour from the international boundary and in respect of their lines in Canada, any through tickets and through baggage checking arrangements issued and provided by initial United States railways from points in the United States to non-competitive points on the Canadian Northern Ontario Railway.’

Immediately upon this order being issued, correspondence took place between the general passenger agents of the three railway companies, and in a memorandum

SESSIONAL PAPER No. 20c

from the general passenger agent of the Canadian Northern to the Chief Solicitor of that Company of June 12, 1909, a copy of which was filed, the request is made that 'as to fully provide for through ticketing to our points, it should be ordered, that the Grand Trunk and Canadian Pacific Companies publish fares and the apportionment thereof *from points of interchange with their American connections* to non-competitive points on the Canadian Northern Ontario Railway, such fares to cover tourist and other traffic and be identical with those now in effect by the Grand Trunk and Canadian Pacific Railways to the same district.'

The portion above underscored presents a feature of the case not covered by either of the orders in question.

In a letter from the Assistant Solicitor of the Canadian Northern Railway Company of July 28, the following statement appears—'The situation in a nut-shell seems to be this—The Grand Trunk and Canadian Pacific Railways are not refusing to honour through tickets which are issued, but we understand that they have suggested to certain American railways that they prefer that they should not issue through tickets over their lines, and although some American railways are issuing through tickets, others are not. If the Board compelled the Grand Trunk and Canadian Pacific Railways to put on like tariffs from *frontier points*, to points on our line, it would settle the difference at once, as all American roads could, if a passenger insisted, issue through tickets on the basis of these tariffs.'

A further statement of the contention of the applicant appears in a letter from their Assistant Solicitor of October 20, in which it is stated that the companies (the Grand Trunk and Canadian Pacific Railways), are not complying with the *intention* of the order of May 6, and that if the Board intends the order to become effective, it will be necessary to make some further specific order, and it is then suggested that the Grand Trunk and Canadian Pacific Railway Companies should be ordered to file tariffs from frontier *American* points to non-competitive points upon the line of the Canadian Northern.

The Canadian Pacific and Grand Trunk Railway Companies filed answers to the above request, and took objection to the jurisdiction of the Board to require them to file tariffs covering traffic moved by them within the United States.

So far as I could gather from all that was said upon the argument, and from all the correspondence attached to the file, the Grand Trunk and Canadian Pacific Railway Companies are not in default as to the orders issued. Tariffs have been filed pursuant to those orders; they have been honouring all tickets that have been issued; and the orders have been in all respects complied with; the difficulty apparently is they do not go far enough to give the applicants what they desire. There is no doubt that the Grand Trunk and Canadian Pacific Railway Companies have not been assisting the Canadian Northern in the attempt of the latter to share in the Muskoka business. There was, however, nothing that appeared that indicated any evasion of any rights the applicant had acquired under orders already made. The American lines, it is said, cannot issue through tickets, because the tariffs filed by the respondents are from frontier points *in Canada*, while the business is exchanged at frontier points in the *United States*, viz.: Detroit, Buffalo, and Niagara Falls, New York; so when the Pittsburgh passenger asks for a through ticket to an exclusive Canadian northern point, he is told there is no tariff between Buffalo and Bridgeburg, or Niagara Falls, N.Y., and Niagara Falls, Ontario, as the case may be. The Grand Trunk and Canadian Pacific Railway Companies have constructed the term *International boundary*, in the order of May 6, as not meaning some point in the United States, and in this I think they are correct.

The single question involved in this application it seems is whether this Board can require these companies to file tariffs on this traffic from Detroit, Niagara Falls, N.Y., and Buffalo. The distance from the points of transfer to the boundary line is

1 GEORGE V., A. 1911

short, but it is outside of Canada, and it is traffic that falls within the jurisdiction of the Interstate Commerce Commission.

It is true that some sort of jurisdiction or control might be exercised over the actions of those companies in United States territory by reason of their being incorporated in Canada, having their head offices, &c., in Canada, but the answer to the wisdom of any such attempt is that as to their operation in the United States, they are subject to the laws of another country and to the jurisdiction of another commission. If this Board attempted to follow or control for the distance of one mile into the United States, so far as the principle is concerned, it might as well go a hundred or a thousand miles. The applicants' difficulty lies in the fact that the three points of transfer covering the bulk of this traffic lie in the United States. This would seem to be authorized by section 156 of the Railway Act, 'in so far as permitted by the laws there in force.'

In the judgment of Mr. Commissioner McLean, of May 5, which was the foundation of the order of May 6, it is stated 'The Board has no jurisdiction in regard to the rate charged by the railway or railways in the United States up to the International boundary. . . . The very moment that this traffic crosses the International boundary, whether this be a dividing point on land or water, it falls within the jurisdiction of the Board.'

This seems the only safe and reasonable course to follow in the various matters that come before the Board in connection with international traffic. We have had difficulties in the past with this class of traffic, and doubtless in the future many more complex and troublesome cases will arise, and it seems from every point of view it would be both unwise and improper to attempt, by any sort of side wind, the assertion of any extra territorial jurisdiction whatever.

Again, even if the Board required the respondents to 'file' tariffs from *American frontier* points to these Canadian Northern Muskoka points, where should these tariffs be filed? It has not been argued that this Board could compel their filing with the Interstate Commerce Commission at Washington—of course, such a contention could hardly be argued—and if they were filed with this Board only, I do not know to what extent, if any, the American railways would pay any attention to them. It would seem that to be effective and legal in the United States, they would have to be filed there; so in every aspect of the case it would seem this Board can go no farther than it has already gone, and the application must be refused.

Judgment of Mr. Commissioner Mills, in dissent:

If this is wholly a question of law, I have nothing to say. If, however, it is, as appears from the language used, not merely a question of law but also a question of expediency, I am unable to concur in the judgment of the Chief Commissioner.

So long as the provisions of the Railway Act are not clear and specific on the question, the mere fact that it suits the convenience of a Canadian railway company to interchange traffic with United States railways, on the Michigan side of the Detroit river and the New York side of the Niagara river, rather than on the Canadian side of the said rivers, should not, in my opinion, oust the jurisdiction of the Board of Railway Commissioners for Canada to require the said Canadian company to issue, in the case of international traffic, a joint tariff affecting the Canadian portion of the said traffic (passenger and freight traffic) from the point of interchange at or in the immediate vicinity of the International boundary, to points in Canada.

Technically the points of origin—Detroit, Buffalo, and Niagara Falls, N.Y.—are under the jurisdiction of the Interstate Commerce Commission, but the haulage, the service, is practically all within Canada; and I cannot for a moment believe that the Interstate Commerce Commission would think of questioning the right of the Canadian Commission to control Canadian traffic, merely on the ground that the said traffic originates on the United States side, instead of in the middle or on the Canadian side, of the Detroit and Niagara rivers.

SESSIONAL PAPER No. 20c

I may add that the Board of Railway Commissioners for Canada, on at least two occasions, in the years 1907 and 1909, ordered a reduction of rates from frontier points on the United States side of the International boundary, to points in Canada. See order No. 4062, dated November 4, 1907, reducing rates on coal from Rouse's Point, New York, to Côteau Junction and St. Polycarpe, in Quebec; also order No. 6168, dated February 3, 1909, reducing the rate on coal from Suspension Bridge, N.Y., Black Rock, and Buffalo to Lindsay, Ont. These orders have been complied with by the railway companies, without demur; and the Interstate Commerce Commission has not intervened.

In fact, the possible intervention of the Interstate Commerce Commission, on a legal technicality such as that relied upon by the respondent companies in this case, is, I think, a mere bugaboo; and therefore, my opinion is, that the respondent companies (the Grand Trunk and Canadian Pacific) should each be directed forthwith to file and publish, in the usual way, a joint tariff and the apportionment thereof from frontier points (at or in the immediate vicinity of the International boundary) used for the interchange of traffic between Canadian and United States railways, and from Canadian points on its lines of railway (the Grand Trunk or the Canadian Pacific, as the case may be), to all points on the Canadian Northern—Toronto to Sudbury line—not reached by the railway of the company issuing the joint tariff; such joint tariffs to cover tourist and other traffic and be identical in scope and effect with those now used by the Grand Trunk and Canadian Pacific Railway Companies to points on their respective lines in the same districts.

Further, if the respondent companies, notwithstanding the facts and circumstances in the case, continue to press the question of jurisdiction on the ground of legal technicality, then, on the ground of unjust discrimination against the Canadian Northern Railway Company, the Board can and I think should disallow the joint tariffs which the said companies issued and have in effect to points on their respective lines of railway in the same districts.

While it may not be possible for the Board to dispose satisfactorily of all the points at issue in this case, it should, I think, in the interest of the travelling public as well as the applicant company, go as far as it can towards a reasonable solution of the problem.

The Assistant Chief and Mr. Commissioner McLean concurred with the Chief Commissioner.

Telegraph Case—Counting of Words in Domestic Messages.

The transportation department of the Canadian Manufacturers' Association complained to the Board against the Great Northwestern, the Canadian Pacific and Western Union Telegraph Companies, respecting the proposed amendment to rule 4 of their tariffs in connection with the transmission of code messages between points in Canada.

The complaint was heard at a sitting of the Board, composed of the Chief Commissioner, Assistant Chief Commissioner, and Mr. Commissioner McLean, held in Ottawa, December 21, 1909, at which the telegraph companies and the complainant association were represented.

The facts are fully set forth in the judgment of the Board delivered orally by the Chief Commissioner at the hearing.

Judgment Chief Commissioner Mabey:—

This matter comes before us on an application made by the manager of the transportation department of the Canadian Manufacturers' Association received sometime in the latter part of November, and which affects the allowance by the Board of a proposed change in the rule, which was received in the office of the Railway Commission on September 20, and filed in the office of the Chief Traffic Officer.

1 GEORGE V., A. 1911

but which bears date of August 14, and purports to be a notice sent by the general manager of the Great Northwestern Telegraph Company to all managers and agents of that company.

The object of this notice sent us by the manager of the company is to amend rule No. 4, which forms part of the former tariff. It seems to us that the filing of this as an amendment to the tariff proposed by the telegraph companies is a mistake, and we are of the opinion that the amendment should have been placed before the Board in quite a different form, and should have covered matters not covered by this document which it would appear is simply a circular to managers and agents.

As a result of the complaint I have referred to, made on behalf of the Manufacturers' Association, the Board thought that that change should not be brought into effect as respects domestic traffic until those concerned and affected by it might have an opportunity of presenting their views and a hearing was fixed for the 21st of this month.

It seems that by some misunderstanding or mistake the true intention of the Board was not apparently conveyed to the telegraph companies, and as has been pointed out during the discussion all that we intended to place any restriction on in the interval was as to domestic traffic.

We fully appreciated that with respect to international traffic there were very grave questions that would have to be considered before the activities of the Board could be exercised, if at all.

However, our intention went to the telegraph companies wrongly, and they have been complying with what they understood to be our direction with respect to all classes of traffic. All I can say with reference to that is, that I trust the misunderstanding will not have inconvenienced them to too great an extent.

Now, with respect to this proposed change within the limits of the Dominion of Canada, to which our sphere of jurisdiction must be confined, we are all of the opinion that this proposal by the telegraph companies is not unreasonable. We believe that the request made by the telegraph companies in this application is not unreasonable, and we think we are not in error when we express our views of the situation somewhat in this way:—A number of years ago a system of code forms that has been in vogue ever since was permitted by the telegraph companies. I should fancy that at that time it was a concession or privilege given to their patrons which the telegraph companies were probably not compelled to allow. But in order to facilitate and encourage business, they permitted the formation of various combinations of words, which were formed into a code and under which business men and commercial men were able to convey in their correspondence long sentences expressed in a single word. This was necessarily cutting severely into the revenues of the telegraph companies. It was a concession and a privilege given by the telegraph companies to the public generally and which, as I have said, probably under the law at that time, they were not compelled to extend to them.

Now, we have no doubt whatever, that when these privileges were given to the public by the telegraph companies it never could have been in the mind of those who at that time thought it not unwise to grant these privileges, they would ever be developed or extended to the extent now existing, I cannot conceive that those who gave these privileges to the public at that time could have thought that any one could form such combinations and keep them at all within reasonable bounds, as apparently the code makers have developed—one word covering whole sentences in some instances that we see here, one word covering twenty words and so on—I say this without any disrespect or reflection upon the code makers, the result of whose efforts has displayed the greatest genius and indeed in the interest of the public, but working we think clearly to the great detriment and loading up of the telegraph companies who were compelled to transmit these code messages which caused delay, and at the expense of longer messages, for which the telegraph companies would receive

SESSIONAL PAPER No. 20c

more money. We think that these combinations and ciphers work unreasonable hardships on the telegraph companies, not only in so far as their revenues are concerned, but also on account of the increased liability to error, and to the taking up of the time of the operators in transmitting these cipher messages over their lines, and the obstruction of general commercial business. We all think it is perfectly apparent that these cipher messages must take up the time of the operators to a very much greater extent than the transmission of ordinary messages. It is said that it takes from 75 per cent to 150 per cent longer time in the transmission of these cipher messages than in the transmission of ordinary English words.

From the evidence and from the inspection of these codes that we have had the opportunity of making, we think that that estimate is probably none too high. It has been represented to us, by those who oppose the change proposed by the telegraph companies, that the proposed change let in the words of eight different languages. Personally, I think it is extremely unfortunate that that has to be so, but it is not anything that we can deal with.

It is said by the telegraph companies that this vocabulary is forced upon them, that they are bound to observe it and to recognize every word in that vocabulary as a word they have to carry notwithstanding what may be the number of letters in it.

All that this proposed change in the rule will result in is as to those artificial words, they shall be limited to five letters and, if any words of more than five letters enters into the formation of a code word, that then each five letters or fraction thereof shall make a word under the new rule.

I think the rule is badly worded, but so long as it does not create confusion, and so long as it carries out the intention of those who will have to put it in force no serious criticism of it can be made on that account.

We do not regard this application as necessarily increasing the tolls upon code messages. We are of the opinion that these codes can be so reconstructed that those whose business necessitates the use of a code system of transmission of messages need pay no higher toll than they are paying now.

It has not been suggested by anybody that these artificial words cannot be confined to five letters, although it may be that in working out the rule one may not be able to get quite so great a number of words into a message represented by one code word. It appears from the evidence that the rule—if the operation of it is suspended for a reasonable time to enable those using codes to get them into shape—will not have the effect of increasing the tariffs to the users of codes.

It has been suggested that in view of the lapse of time that has taken place since last August, when notice was first given, three months might be sufficient for the suspension of this rule, and that after three months it might be allowed to come into force.

We are of the opinion, however, that the interests of those who have invested their money and established their business under this system of codes that we are discussing, should not be jeopardized, and if we err—we had better, perhaps, err on the liberal side rather than postpone the coming into force of the rule for too short a period. Upon the whole we are of opinion that this rule—embodied in proper tariffs, and not merely as a direction to agents which Mr. Beatty mentioned during the discussion—may be brought into force not earlier than the 1st day of July next. That will give the people interested ample opportunity to adjust their business to this changed situation without in any way levying any increase on their payments.

Order dated December 22, 1909, approving the proposed amendments, when embodied in proper tariffs and filed by the telegraph companies, to be brought into force not earlier than July 1, 1910, issued accordingly.

1 GEORGE V., A. 1911

Metallic Shingles. Application of Kemp Manufacturing Company and Winnipeg Ceiling and Roofing Company, of Winnipeg.

The Kemp Manufacturing Company and the Winnipeg Ceiling and Roofing Company applied, under Section 315 of the Railway Act, for an order directing the railway companies to equalize their freight rates on metallic shingles and metallic siding from eastern points to Manitoba, Saskatchewan and Alberta as against the freight rates charged on the unmanufactured material.

Judgment Commissioner McLean, December 21, 1909.

This application was heard in Winnipeg in March of the present year. The Canadian Pacific Railway Company was given permission to submit a statement elaborating some material traffic matter. This they subsequently did. Later, various Ontario manufacturers interested in the same kind of manufacture desired to intervene. In view of the full opportunity given these manufacturers to submit evidence during the former hearing which led up to the issuance of the order, No. 653, dated July 5, 1905, it was deemed sufficient to permit them to present their position in written arguments. These were subsequently submitted.

The application before us asks for the rescinding of order No. 653, in so far as it relates to, or has affected shipments to points west of and including Port Arthur, Ontario, from points in Canada east thereof and from Winnipeg and St. Boniface, Manitoba. This order was issued as the result of an application on behalf of the Canadian Manufacturers' Association and various manufacturers of metallic shingles and siding for an order reducing the rating of these commodities from 5th class and placing them in the 7th class. The order instead of granting the relief in the form asked for, directed that metallic shingles and siding in carloads should be given a commodity rating equal to the class rating that they had enjoyed when carried in carloads on 7th class for a considerable period of time prior to March, 1901.

The steps leading up to this are set forth in the judgment of the late Chief Commissioner as well as in the exhaustive reports of the Chief Traffic Officer of the Board. The effect of the new commodity rating was to give the finished material—the shingle and siding—a lower rate than was charged on the raw material.

The Chief Commissioner recognized in his judgment that the arrangement was contrary to the ordinary principles of classification. He said:—

It appears to me that, having reference to the nature of the commodities in question, if the work of classification was now being undertaken for the first time, these articles would naturally fall within the 5th class. If, as is now the case, the raw material was being put in the 5th class, there would be strong reasons for not putting the manufactured articles in any lower class.

That railways had their own volition for a period of eleven years, from 1890 to 1901, carried the finished material in the 7th class. It was indeed pleaded that this was the result of a mistake. But, a mistake persisted in for eleven years becomes a habit. The maintenance of such an anomalous system of rating for such a period of time placed the burden of proof that it was not unreasonable on the railways.

If the railways choose to be illogical in the arrangement of their classification or of their rates, there is no necessity for the Board's intervention as a mere arbiter of logic. The Board's function here is concerned with the prevention or correction of grievances. It is interested in the logic of the situation only when the creation or continuance of an illogical arrangement results in an unjust discrimination against some portion of the public. It is patent that there is a burden of obligation on the Board to attempt to redress such unjust discrimination when it has been created by the volition of a railway or railways. It needs no elaboration that the same burden rests on the Board, if as a consequence of the continuance of one of its orders or the emergence of conditions not existent when such order was made, an unjust discrimination develops.

SESSIONAL PAPER No. 20c

The raw material, black plates, Canada plates and galvanized sheets used in the manufacture of metallic shingles and siding, may be obtained either from Wales or from Pittsburg. It does not appear with any exactness what is the relative use of the two sources of supply. It is admitted by all the parties to the application that the Welsh plate is used to a much greater extent. The applicants state that they make use exclusively of Welsh plate.

Reverting to the original order which it is now sought to rescind, the Chief Commissioner's judgment established that the departure from classification logic was under then existing circumstances justifiable. It is true that in the earlier stages of the proceedings leading up to that order a letter was received, under date of July 15, 1904, in which the Winnipeg Ceiling and Roofing Company protested against the finished material being given a lower rating than that in force on the raw material. While the report of the Chief Traffic Officer of the Board, under date of February 21, 1905, refers to this protest, a consideration of the judgment of Chief Commissioner Killam shows no reference to this matter, and further shows that this matter in no way affected any part of the reasoning of the judgment. It is clear, to quote the words of the Chief Traffic Officer of the Board, in his report on the application now before us:

The judgment was based on the continuance for many years of the reduced rating which the companies had established in 1890.

The judgment shows that what weighed with the Chief Commissioner was that the railways had of their own volition for a period of eleven years carried the finished material in the seventh class. The continuance for a period of time of such an anomalous system of rating placed on the railways the onus of rebutting the presumption that this arrangement was reasonable. This was not conclusively done by the railways.

The demand for metallic shingles and sidings, so far as the west is concerned, arises almost wholly in connection with the construction of elevators and warehouses at points west of Winnipeg. Consequently any rate comparison must take into consideration points to which actual distribution is made.

The following comparative tables from the report of the Chief Traffic Officer of the Board show the existing situation in respect of rates and cartage charges which have to be incurred in laying down the commodity. They illustrate the traffic effects of Toronto and Montreal competition at points west of Winnipeg with the product manufactured at Winnipeg.

WELSH PLATE.

MANUFACTURED AT MONTREAL VS. WINNIPEG.

	Board's Commodity Basis.	Regular Tariff Basis.
Note 1. Plates, Cardiff to Montreal.	18½	18½
" 2. Shingles, Montreal to Brandon.....	62=80½	76=94½
" 3. Plates, Cardiff to Winnipeg.....	70	70
" 4. Shingles, Winnipeg to Brandon.	19=89	21=91
Difference in favour of Montreal.....	8½	
" " of Winnipeg.....		3½

WELSH PLATE.

MANUFACTURED AT MONTREAL VS. WINNIPEG—Continued.

	Board's Commodity Basis.	Regular Tariff Basis.
Note 1. Plates, Cardiff to Montreal	18½	18½
" 2. Shingles, Montreal to Calgary	97=115½	129=147½
" 3. Plates, Cardiff to Winnipeg.....	70	70
" 4. Shingles, Winnipeg to Calgary.....	56=126	71=141
Difference in favour of Montreal		
" " of Winnipeg.....	10½	6½

Note 1. Wharfage, 1c., Cartage, 3c. added.
" 2. Montreal cartage not added. Factory on siding.
" 3. Winnipeg cartage deducted. "
" 4. " not added. "

MANUFACTURED AT TORONTO VS. WINNIPEG.

Note 1. Plates, Cardiff to Montreal.....	14½	14½
" 2. " Montreal to Toronto.....	15½	15½
" 3. Shingles, Toronto to Brandon.	64=94	78=108
" 4. Plates, Cardiff to Winnipeg.....	70	70
" 5. Shingles, Winnipeg to Brandon.....	19=89	21= 91
Difference in favour of Winnipeg	5	
" " "		17

Note 1. Plates, Cardiff to Montreal.....	14½	14½
" 2. " Montreal to Toronto.....	15½	15½
" 3. Shingles, Toronto to Calgary.....	99=129	131=161
" 4. Plates, Cardiff to Winnipeg.....	70	70
" 5. Shingles, Winnipeg to Calgary.....	56=126	71=141
Difference in favour of Winnipeg ..	3	
" " "		30

Note 1. Wharfage not added (prorated between S.S. Co. and Ry. Co.)
" 2. 13½ cents plus Toronto Cartage (Import tariff includes Montreal terminals).
" 3. Toronto cartage added. Not on siding.
" 4. Winnipeg cartage deducted. Located on siding.
" 5. " not added. "

From the foregoing tables may be ascertained what conditions of traffic advantage or disadvantage exist. In traffic differences I include cartage charges, where such exist. A recognition of the cartage charges is essential as indicating what are the total traffic charges in handling the commodity to destination. It prevents unfair rate comparisons, based on rates to points where no cartage charges exist, as compared with points where such charges do exist. The following summary compiled from the preceding tables summarizes the net traffic differences—a disadvantage to the Winnipeg manufacturer being represented by a minus sign, while an advantage is represented by a plus sign.

WELSH PLATE.

Shipments to Brandon, Winnipeg.	[Shipments to] Calgary, Winnipeg.
Montreal..... - 8½ cents.	Montreal..... - 10⅓ cents.
Toronto..... + 5 "	Toronto..... + 3 "

SESSIONAL PAPER No. 20c

As already indicated, Pittsburg plate plays a negligible part in the business. Presumably the fact that the Welsh plate has the advantage of the preference, while the Pittsburg plate comes in subject to a duty is in part responsible for this. From tables contained in the report of the Chief Traffic Officer of the Board, a summary similar to that given above, is prepared.

PITTSBURG PLATE.

Shipments to Brandon, Winnipeg.		Shipments to Calgary, Winnipeg.	
Montreal.....	+5½ cents.	Montreal.....	+3½ cents.
Toronto.....	+5½ "	Toronto.....	+3½ "

These summaries show that, in respect of Welsh plate Montreal has a traffic advantage over Winnipeg. It is on the Montreal situation that the applicants base their claim.

The applicants allege that at times they buy their raw material from jobbers in Montreal, and that they are thereby subjected to an especial rate disadvantage in that they have to carry forward raw material to Winnipeg, manufacture it there, and sell it in a common market in competition with the product manufactured at Montreal, which has gone forward on a lower rate. The intervenors in their written argument challenge the accuracy of the statement that purchases of raw material are made in Montreal. I do not think that this matter is of any great importance one way or another. It is merely a question of emergency buying, and no general conclusion is to be built on it. It is, I take it, merely illustrative of the existing situation.

The central fact is that of Montreal manufacture and competition. The allegation that there is manufacture of metallic shingles and sheeting at Montreal which enter into competition with the product manufactured at Winnipeg is contested. It appears, however, that there is a considerable volume of metallic shingles and sheeting manufactured at Montreal, going forward from that point to Winnipeg.

It is being established that there is, as between the Montreal and the Winnipeg manufacturer trade competition, and it being further established that the former has a rate advantage as compared with the latter, the question remains: is such advantage undue or unjust.

It is a natural trade condition for manufacturers, conditions of capital and demand being satisfactory, to carry forward the raw material to the point most economically adjacent to the centres of demand and then manufacture it. Normally this means that the long haul of the raw material is at a low rate, while a higher rate is on the finished material from point of manufacture to point of destination. Some times both the raw and the finished materials may be in the same class. To find the raw material classed higher is abnormal. The natural trade condition spoken of is constantly shown in the contest of various centres over distributing rates. Whether a centre shall have a distributing territory tributary to it, and what that territory shall be, is something which in general, in my opinion, lies outside of the scope of the Board's functions. It is a matter which must be left to general trade conditions to adjust. The Board becomes interested in it only because of some complaint of discrimination or unreasonableness of rate.

In regard to the Winnipeg situation, conditions now differ materially from those existing when the Board dealt with the matter in 1905. There is now an established industry at Winnipeg. This factor which was in 1905 negligible, must now be considered

1 GEORGE V., A. 1911

It is not for the Board to attempt to direct trade development. This is something which must be worked out in other ways. But, for the Board to stand on the former order, regardless of changed industrial conditions, is for it to place a traffic obstacle in the way of legitimate trade development.

I am, therefore, of opinion that order No. 653 should be rescinded in so far as it relates to shipments and within the territories hereinbefore described.

The Chief Commissioner concurred.

Order in accordance with the judgment, dated December 21, 1909, issued.

Application of the Rat Portage Lumber Company, Limited, for an order under sections 314, 318, 321 and 323 of the Railway Act for an order directing the Canadian Northern Railway Company to reduce its tolls for carrying saw-logs from the Rainy river and other points adjacent thereto to the mills of the applicant company. Heard at Winnipeg, March 10, 1909.

Judgment, March 10, 1909.

Hon. Mr. MABEE.—It seems to me that the only landmark and anchorage that we have in this matter, and in this my brother commissioner concurs, is the Act of the Manitoba legislature passed in the 61st year of her late Majesty's reign.

Now, it seems that at that time certain railway aids were being given and certain guarantees entered into by the Manitoba government. As a condition of accepting the guarantee provided in that Act, the government imposed upon the railway a certain scale of charges that they were not to be allowed to exceed with reference to the hauling of cordwood (which does not arise upon this application), and upon pine and spruce logs.

The railway company, in accepting the government guarantee came within the provisions of the statute and were bound to accept the burden along with the benefit.

One of the burdens, and the one that is in dispute here was that for 150 miles or from the point where the railway touches Rainy river, to the city of Winnipeg, the toll should not exceed \$2.50 per thousand feet board measure.

Now then, the contract made with the government was that for 150 miles, or from the point where the railway touched Rainy river, the railway was bound to haul pine and spruce logs to points on its own line at a charge not to exceed \$2.50 per thousand feet board measure.

The guarantee is still in existence. This statutory contract runs during the term of the guarantee. So that while that guarantee is still outstanding, the railway company is compelled, by virtue of the terms of that statute, to haul at that rate, or at a rate not exceeding the \$2.50 per thousand feet.

Now, I think there can be no dispute raised by any one with the situation as far as I have gone. The wording of the Act is clear. It is not ambiguous. There is no dispute about the facts. The guarantee is still outstanding, and that is a condition that is imposed upon the railway company.

The difficulty arises because in 1903 an arrangement was made, or attempted to be made, whereby, with reference to certain portions of the route covered by the Act I have just referred to, the tolls were to be in some instances slightly exceeded for the haulage of pine and spruce logs.

There were negotiations on foot between the president of the Rat Portage Lumber Company and the traffic manager of the Canadian Northern Railway in Winnipeg in November of 1903, which led to the writing of the letter of that date which has been read, and which defines certain tolls that it is said had been arranged upon. And, there were also certain matters regarding a spur, and the expropriation of the land required for the spur, referred to in the communication, and the letter winds up with the statement 'will you kindly note your acceptance on the face of the copy of the letter attached and return to me for my office record?'

SESSIONAL PAPER No. 20c

Now the letter written in reply by the manager of the lumber company was not an unconditional acceptance of the letter written by Mr. Shaw. It dealt with some of the matters referred to and closed with the statement: 'That upon the return of Mr. Cameron he would see Mr. Shaw and discuss the matter with him.'

Then it is said that there was afterwards a conversation when this was arranged.

Then I presume that from that time, from the end of 1903, until about the beginning of August, 1905, the tolls were paid upon that basis.

Then in June of 1905 an application was filed by the lumber company with the Railway Board, setting forth with elaborate details the various statutes bearing upon the particular matter in dispute, giving the history of the different charters and their provisions, and the terms upon which it was granted, and also alleging that the applicants were receiving an unsatisfactory car service, alleging that the class of cars furnished were not satisfactory for the carrying on of the applicant's business and claiming relief.

First.—That the railway company should be required to give a better car service.

Secondly,—That they should be required to carry out the terms of various statutes which were set forth in detail in the petition.

And thirdly,—That they should be ordered to refund the excessive charges.

Well, these excessive charges could only be the increased amounts that have been paid upon the basis of the letter of November 23, 1903.

So that apparently the lumber company at that time was contending that they had been paying sums for tolls in excess of the statutory provisions under the Guarantee Act.

Then in August of 1905, an agreement was made between the contesting parties here, which is set forth in a document dated 7th of that month, and under that document Mr. Cameron, representing the lumber company, agreed to withdraw 'the suit now pending before the Railway Commission with regard to various matters on the following understanding.'

Then it was arranged that the Rat Portage Lumber Company was to pay the usual siding costs.

Now, there is no siding dispute set up in the petition that I have just adverted to, but that was a matter that was unadjusted between the parties, and the agreement covered the adjustment of that, 'as well as all matters referred to in the petition that had been filed with the Board.'

Then the lumber company was to proceed to do the grading, ballasting, and to pay 6 per cent of the cost of the rails from the junction of the Canadian Northern to the end of the siding.

Then the Canadian Northern was to pay the lumber company what they paid for the right of way from Oak avenue to the junction of the company's switch.

Then provision was made that any other person using this siding should pay his proportion of all charges against the lumber company from Oak avenue to the junction.

Then, that the right of way from Oak avenue to the junction mentioned, be the property of the Canadian Northern, that is not already transferred to the railway company; Mr. Cameron was to have it transferred immediately.

Now, it will be seen that the only question or matters covered by this document of 1905 that are elaborated with any detail whatever, are those relating to the working out of the agreement that was made regarding the construction of this siding, and the payment for, and the conveyance of the land occupied by it.

There is no mention made in this settlement of the complaint regarding the excessive or alleged excessive rates that were charged up to the date of the filing of the petition, nor is there any reference made to the refund that was claimed, nor is there any reference made to what seems to have been the gravamen of the complaint, namely the defective car service. But, the complaint is simply withdrawn with re-

gard to—(reading the words from the agreement) various matters on the following understanding, &c. I presume, at least I think the fair presumption would be, that some additional understanding was had verbally between the parties at that time regarding the sort of car service that should be furnished in the future.

Then from the date of the adjustment in 1905, matters proceeded, it is said, until some time about the beginning of this year, when it is alleged the lumber company was about to file another complaint, with the Board, and some arrangement was made, or was said to have been made, whereby it should not be filed, and the matter should be deferred for discussion between the president of the lumber company and the president of the railway company.

Later on, on February 22, I think it was, the petition now before us, was filed, and no complaint is made in it with respect to the car service, nor is there any complaint made in it for any refund of excessive charges or alleged excessive charges.

So that the bald point presented to us for consideration is whether the railway company had an agreement with the lumber company enforceable—a concluded, clear, definite agreement, or whether they are able to present to us facts from which we can infer that there was a clear, definite, concluded agreement between the railway company on the one hand, and the lumber company upon the other, that the provisions of this statute should not apply, and that the lumber company had contracted itself out of the benefit that the provisions of the Manitoba Act confer upon those shipping cordwood and pine and spruce logs over the line of railway referred to.

Now, it is said upon the one hand, that the agreement of 1903, covered by the letter of Mr. Shaw's on November 23, of that year, was a final agreement, accepted and adopted by the lumber company, and is binding upon them.

Well, there is no doubt that the lumber company paid upon the basis of that letter, but there is also no doubt that they were complaining about the excessive payments, the excessive tolls, in the first application filed with the Board, and claimed a refund. There is also no doubt that that was abandoned, and they continued to pay the increased tolls beyond the statutory provisions, down to the date of the filing of the present application; but, it does not seem possible that that letter, and that understanding, could be converted into a binding contract under which the lumber company was bound to pay those additional tolls for all time.

It is said upon the one hand that the lumber company had the right to determine the agreement, and cease paying these tolls at any time it chose. It is said upon the other hand that the agreement is a binding one, and lasts so long as the railway company chooses to insist upon its being upon foot.

Well, it is very difficult to say, indeed it is impossible to say how long under the circumstances, the agreement might last, but it is perhaps unreasonable for the lumber company to say they were at liberty to absolve themselves from it the next day after it had been entered into, and it seems to me also equally unreasonable for the railway company to say that it is an agreement that is on foot during their pleasure, in other words for all time that the logs may be shipped in over their line of railway to the mills of the lumber company. The thing is left in an indefinite state, and it seems to me that the very indefinite condition that it was left in, makes it utterly impossible for us to say that it overrides the clear, plain, express provision of the statute imposing or limiting the tolls of \$2.50 per thousand on pine and spruce logs to be hauled by the railway company.

So that it seems to me that we have no alternative, as I said in the beginning, but to apply the statute under which the railway company obtained the guarantee from the government. And, the declaration will be:—

That the railway company is not entitled to charge more than the sum of \$2.50 per thousand for 150 miles, or from the point where the railway touches Rainy river, to the city of Winnipeg, and for points intermediate, that is points from which logs

SESSIONAL PAPER No. 20c

may be hauled less than 150 miles over the line of road, the scale of charges will be proportionately less.

With reference to originating points in the state of Minnesota I say nothing, because as to that we have nothing to do. If the applicants use the line of the railway company from points in the state of Minnesota, those are tolls over which we have no jurisdiction, and no control. We simply make the declaration in the terms of the statutory contract entered into between the railway company and the government upon the strength of which they obtained the guarantee. We think it is clear they are bound by that during the life of the guarantee at least, and that the tolls must be in accordance with the contract which they entered into.

There then remains only the switching charge at the end of the line of the applicants into the mills of the lumber company.

I am not at the moment quite clear as to what can fairly be regarded as the end of the line. It seems that under this contract this switch is the property of the railway company. However, with reference to this switching charge or toll, if there is entitled to be any charge made for that, we propose, in the meantime, to leave that in abeyance, and if the applicants and the railway company are unable to adjust what might be considered a fair and reasonable charge for the service, then we will deal with it and fix a sum for that switching service if indeed they are entitled to be paid anything for it.

It seems to me with reference to that matter, that the parties might arrange it among themselves.

Manitoba Free Press et al v. The Dominion Express Co. et al.

Judgment Chief Commissioner Mabee, December 24, 1909.

The Manitoba Free Press, the Telegram Printing Company, and the Tribune Publishing Company complain against the rates charged by the Dominion Express Company for carrying newspapers out of Winnipeg.

This complaint was allowed to stand along with many others to be dealt with when the general express inquiry was ripe for disposition, but as there may be further delay in concluding that matter, it is perhaps desirable that individual complaints should, as far as possible, be dealt with separately, and not be further delayed.

It was said that down to April, 1908, the rate charged was $\frac{1}{4}$ a cent per pound, when it was raised to $\frac{1}{2}$ a cent. The former charge had been in effect for many years and is the rate charged by the companies for carrying newspapers out of Toronto. No increase was made in Ontario at the time the rates out of Winnipeg were raised.

There is no collection or delivery service performed by the express companies in the case of newspapers and to that extent it differs from most express traffic. The rate by mail is $\frac{1}{4}$ cent, but, of course, this affords no reasonable basis by which to adjudge what a fair rate by express would be, nor are the companies bound to compete with the mail route. We were given no evidence regarding the cost of carriage or as to why the rate in effect for so many years was doubled. The well-known rule in such cases imposes upon the carrier the burden of showing reasons for increase in rates—the presumption being that a rate voluntarily established and remaining in effect for a long period is reasonably remunerative. This burden was not discharged and so the applicants are *prima facie* entitled to have the old rate restored.

It was argued by Mr. Chrysler for the Express Company that the low rate of $\frac{1}{4}$ cent had been established to assist the newspapers in their circulation, but that since express companies had been brought under the Railway Act they were bound to treat everyone alike and could give no favours to newspapers and that the rate they were paying was out of line with the rates charged other people for similar service. He also contended that the $\frac{1}{4}$ cent charged in Ontario was unreasonably low.

1 GEORGE V., A. 1911

We were not furnished with particulars of instance of *like services* to others and the $\frac{1}{4}$ cent rate out of Toronto is still in effect. We have no material to show why the rate out of Winnipeg should be double the rate out of Toronto and in view of the Winnipeg rate having been for many years the same as the Toronto rate, it would seem apparent that the only reasonable result of the controversy must be that the $\frac{1}{4}$ cent rate out of Winnipeg must be restored. Tariffs to that effect must be filed effective February 15, 1910.

Mr. Commissioner McLean concurred.

Order, dated January 3, 1910, issued accordingly.

Later by order, dated March 9, 1910, the Board directed that the rate to be charged by the express companies for the carriage of daily newspapers from Winnipeg be the same as charged by the Dominion Express Company in Eastern Canada, namely, $\frac{1}{4}$ cent per pound on the aggregate rate per month to points reached by the said company within 300 miles of Winnipeg, exclusive of wagon service, and rescinding the said order of January 3, 1910.

The Western Associated Press v. The Canadian Pacific Railway Company's Telegraph and the Great Northwestern Telegraph Company of Canada.

The Western Associated Press of Winnipeg applied to the Board, under section 323 and the following sections of the Railway Act, for an order directing the respondent companies to charge press rates for press matter whether delivered to a newspaper or the Western Associated Press, and directing the respondent company, the Canadian Pacific Railway Company's Telegraph to carry telegraphic news services supplied by other newsgathering agencies at the same rate charged by the said telegraph company.

Judgment of Board delivered January 1, 1910:—

On January 2, 1894, the following agreement was entered into between the Canadian Pacific Railway Company and the Associated Press:—

This contract entered into this second day of January, A.D. 1894, by and between the Associated Press, a corporation incorporated under the general laws of Illinois, as party of the first part, and the Canadian Pacific Railway Company of Canada, party of the second part.

Witnesseth:

That whereas the said party of the first part is engaged in the collection and distribution of news for publication in newspapers within the limits of the United States.

And whereas the said party of the second part is engaged in a like business in Canada, and the said parties are mutually desirous of making an exchange of news upon the frontier line between Canada and the United States.

Now therefore it is agreed:

That for and in consideration of the covenants hereinafter agreed to by the said party of the second part, the said party of the first part agrees to deliver its news reports to the authorized representatives of the said party of the second part, at Bangor, in the state of Maine; at Buffalo, in the state of New York; at Detroit, in the state of Michigan; and at Seattle, in the state of Washington; and to deliver the said reports to no other parties for use within the territory of Canada and the British provinces of North America.

The said party of the first part hereby agrees to deliver to the said party of the second part the said news reports, at the places indicated above, for use within the territory of Canada and the British provinces only, and the party of the second part binds itself that the news reports shall not be retransmitted for use in the United States.

SESSIONAL PAPER No. 20c

That the said party of the second part further covenants and agrees that it will deliver free of tolls to the authorized representatives of the said party of the first part, such current news of Canada and the British provinces as its agents may collect, at the places indicated above, and to deliver the said news to no other party, or parties, for use within the territory of the United States.

The said party of the second part further agrees to transmit over its wires in Canada and the British provinces of North America, as promptly as possible, any matter filed with its agents for transmission, and deliver the same to the authorized representatives of the said party of the first part, at the places indicated above, the rates for such transmission to be one-quarter cent per word for all matter filed between 6 a.m. and 6 p.m. and one-eighth cent per word for all matter filed between 6 p.m. and 6 a.m., local time.

The said party of the second part further agrees to pay the said party of the first part, at its office in New York the sum of thirty dollars (\$30) per week, throughout the life of this contract,—the said payment being a partial consideration for the use of the said news of the party of the first part,—and in addition as further compensation, shall furnish the news of Canada and the British provinces of North America, as above provided.

The wires of the party of the second part, or those of the company through which it makes its connections with the United States, shall be allowed to run into the offices of the party of the first part at the places indicated above, so as to form a direct circuit for the exchange of press between the parties of this agreement. The party of the second part shall be free of rent, and other expenses, excepting telegraph operators at the places indicated above.

This contract shall continue in force for five (5) years from the date of the signing thereof, and thereafter until annulled by six months notice for either party.

Witness our hands and seals this 2nd day of January, A.D., 1894.

Attest:

THE ASSOCIATED PRESS,

CHAS. S. DIEHL,

By MELVILLE E. STONE,

Assistant Secretary.

General Manager.

THE CANADIAN PACIFIC RAILWAY COMPANY,

By W. C. VAN HORNE,

President.

C. DRINKWATER,

Secretary.

This is said to be still on foot except that the railway company pays some \$6,000 per annum instead of the \$30 per week as provided for in the contract.

In addition to the news obtained by the railway company from the Associated Press, it is itself, through its agents and correspondents, a newsgathering agency in Ontario and the eastern provinces, and it has this combined matter for transmission over its telegraph lines.

In September, 1907, the Western Associated Press was formed with headquarters at Winnipeg. It is said that the news service supplied by the Canadian Pacific was unsatisfactory, first, on account of the price, and second, that the newspapers had objections to receiving their telegraphic news through a railway corporation. This press association is a co-operative concern, pays no dividends, was not formed for profit, and its revenues are intended only to pay expenses; it serves eleven newspapers situate in and west of Winnipeg, and one at Fort William. It brings telegraphic news to Winnipeg over the lines of the Canadian Pacific Company and the Great North Western Telegraph Company, and others, but as to the latter, the inquiry need not be pursued, as the complaint is against the respondents only; this news is sifted out at the applicants' headquarters in Winnipeg and distributed by wire to its

1 GEORGE V., A. 1911

members, and the questions involved in this discussion are two-fold. 1st, that the rates charged by the respondents for the delivery of this press matter to the applicants' headquarters at Winnipeg are discriminatory; and 2nd, that the rates for the re-transmission or furtherance of the edited or sifted matter supplied by applicants to their members are likewise discriminatory.

There are fourteen newspapers published between Port Arthur and Victoria that are not members of the applicant corporation, and which obtain their telegraph news direct from respondents, or one of them. This division of the Western Press between the applicants and respondents may be more fully appreciated from the following table:—

Applicants' Members.

Winnipeg Free Press,
Winnipeg Telegram,
Winnipeg Tribune,
Brandon Sun,
Regina Leader,
Moosejaw Times,
Moosejaw News,
Calgary Herald,
Edmonton Bulletin,
Saskatoon Capital,
Fort William Herald,
Edmonton Journal.

Respondents' Customers

Port Arthur Chronicle,
Fort William Times Journal,
Regina Standard,
Saskatoon Phoenix,
Lethbridge Herald,
Calgary News,
Calgary Albertan,
Nelson News,
Vancouver News Advertiser,
New Westminster Columbian,
Nanaimo Free Press,
Nanaimo Herald,
Victoria Colonist,
Victoria Post.

Mr. Nichols, president of the applicants, stated at the hearing that they did not ask for reduction of press rates, but were asking for equalization of rates; in other words, it is the contention of the applicants that their members are being discriminated against, and that the established practice of the respondents works in favour of the newspapers published by their customers and against those whose proprietors are members of the applicant association.

The existing press rate of both respondents from points in eastern Canada to Winnipeg is one cent per word per day service and one-half cent per word for night service, and this has been the rate for some years. These rates are modified by certain rules that confine their application to 'special for publication *at point addressed in one newspaper only.*' So from this it is clear the respondents did not intend these special press rates should apply upon matter addressed to a press association, which is not a newspaper, and which matter would not be confined in its publication to one newspaper only.

The rates charged to the applicants from points in eastern Canada are one and one-half cent per word for day service, and three-quarters of a cent per word for night service.

From the foregoing list, there does not seem to be a newspaper in Winnipeg that is supplied by the respondents at their press rate of one cent per word per day and one-half cent night service; all the papers there that use the telegraph service appear to be members of the applicant association; so in so far as Winnipeg itself is concerned, it is difficult to see how respondents treat any one else or any other corporation in a more favoured manner than they treat the applicants, and there is no newspaper at Winnipeg, or any publishing corporation there that is discriminated in favour of as against the applicants.

But let us deal with the larger question advanced by the applicants—should the respondents be required to furnish to the applicants telegraphic matter at the tolls or rates established by them for delivery to and publication in one newspaper? The

SESSIONAL PAPER No. 20c

telegraph company may properly, and in the public interest, establish low rates upon telegraphic matter to newspapers; it is proper they should be permitted to surround such rates with reasonable rules. When they fixed the one cent day rate and one-half cent night rate, these were reasonably low rates; at any rate they were not complained against, nor do the applicants now complain against them. These rates were established by the telegraph companies upon the understanding that they should be paid by each newspaper in Winnipeg accepting delivery of telegraphic news, and that such matter should be confined in its publication to that one paper. Assuming the rates established reasonable ones, was there anything unreasonable or unfair in this safeguard? Had this not been provided for, supposing there had been ten papers in Winnipeg at the time the rates went into effect, the next day they could have banded together, taken one message only, distributed copies among themselves and deprived the companies of ninety per cent of the revenue they might have reasonably expected, and the receipt of which was an element in fixing the low rate. And is this not in effect what is asked by the applicants. It is reasonable that a rate made for and intended to apply to one class of traffic should be arbitrarily required by this Board to apply to an entirely different class?

The argument that the cost of transmission is the same is not the controlling factor. It is true that the cost of transmission to the applicants of a given number of words may be the same as the cost to an individual newspaper at Winnipeg; but the applicants are not entitled to avail themselves of the press rate provided for the individual paper, because in the first place the framers of the rate had not such a condition of business in mind; no press association at Winnipeg or in the west was in existence at the time the rate was promulgated; and secondly, because had it been considered, it was perfectly open to the companies to make one rate to an individual paper and a higher rate to a press association, so long as neither of them was excessive. The railway equality clauses must be read so far as applicable to telegraphic traffic. Again, supposing there were ten newspapers in Winnipeg that would take news from the companies at the one cent and one-half cent rates, the actual traffic would be ten copies from the telegraph office in Winnipeg—one to each paper. The length of each might differ, some might take one class of matter and others other classes. There would probably be six or seven times the volume of matter that would leave the Winnipeg telegraph office in the case of these ten subscribers, than would leave in the event of the ten amalgamating and taking one message only, breaking it up among themselves as they might choose; and yet it is argued that it is not open to the company to charge a lesser toll upon this large volume. The answer is that subsection 3 of section 315 provides that the tolls for larger quantities or greater numbers may be proportionately less than the tolls for smaller quantities or lesser numbers. Again, the message to an individual paper, limited to publication in that paper alone, is not, when compared with a message to a press association intended for publication both locally and for breaking up and distributing to a large number of points, *traffic of the same description*, nor are *the circumstances and conditions* connected with these two distinct classes of traffic *substantially similar*. One of the controlling portions of this section is the words *passing over the same portion of the line of railway*. In the present mixed up condition of the Railway Act, arising by amendments covering telegraph and telephone companies, and leaving clauses drawn for application solely to railway companies to be made applicable, so far as possible, to telegraph and telephone companies, this clause (315) would have no application whatever, unless the traffic in question passed over the same portion of the telegraph line from start to finish. How this may be with reference to all this news matter that finds its way to Winnipeg as a central point, we do not know, nor was it developed in argument.

In our opinion, the Board should not arbitrarily apply the single newspaper press rate to the applicants. This opinion is based entirely upon the proposition that the press rate of one cent and one-half cent, and the rate to applicants of one and a half

1 GEORGE V., A. 1911

cents and three-quarters cent are not in themselves unreasonably high. In other words we do not think the law requires the respondents to grant the applicants the press rate without the burden of the rules framed by respondents regarding the use to be made of the service. It was not argued that these rules as applied to the individual papers were unreasonable. The rules and the rate were intended to be read together; and it does not seem at all reasonable to compel the companies to separate them and apply the rate to something they and no one else had in contemplation when the rates were made.

There were submitted at the hearing statistics and figures showing press rates in the United States and in England. This was done for the purpose of showing that the existing rates were too high; but statistics of this sort are of no value unless it is also shown what the volume of traffic is that moves under these rates, and what the profit is, if any—cost of labour, expense of maintenance, life of plant under varying conditions, are all most important factors, and all must be known to make a rate in one country of any value as a comparison in another.

The second branch of this application presents entirely different and much more difficult features.

The applicants have a quantity of matter at Winnipeg that they wish to distribute to their members at the above points, and they say they and their members are discriminated against by respondents in that the respondents as a news-gathering and distributing agency places itself in competition with the applicants, and delivers longer dispatches to their customers in places where applicants have members, at lower tolls than are charged the applicants or their members. Take a concrete case as put by Mr. Dafoe at the hearing. In Saskatoon the applicants have a member and the respondents a subscriber or customer, both evening papers. The applicants' member would have to pay \$507 to obtain from the applicants the same service that the respondents furnish its subscriber for \$200. Now this disparity may and does exist at all places to which applicants and respondents distribute news. It is caused by the respondents giving a flat rate to their subscribers and applying a rate per word to applicants' members. That it works out in serious discrimination against the applicants and their members, there is no doubt. Respondents contend they are within their right, and that no law can stop them. They say in the one case they sell to their subscriber the commodity, viz., the news, delivered, at a flat rate; that the payment is for the commodity; while in the case of the applicants the payment by their customer is for the transmission, and not for the commodity; and from this it is argued that the conditions are different.

It was said that these low flat rates were given by the telegraph company in the early days to build up papers in new towns and cities, that settlers and others might have telegraphic news from the outside world, the system grew up long before the government established control over telegraph rates and facilities, was no doubt proper enough in its inception, became established and the continuance of it practically became a necessity, although the loss of the news service over the western telegraph lines of the Canadian Pacific Railway Company was estimated at nearly \$40,000 per annum.

The question for consideration is what change, if any, must be made in this custom by reason of the Statute passed with the object of placing telegraph companies under the jurisdiction of this Board. The toll and tariff clauses of the Railway Act have equal application to telegraph companies and to the telegraph operations of railway companies having authority to construct and operate telegraph lines as to railway companies; and telegraph companies and railway companies operating telegraph lines are required to file tariffs of tolls for telegraph service in the same manner that railway companies are required to file their tariffs for railway traffic; and the definition of 'toll' or 'rate' in section 9 of the Act of 1908, has equal application to railway, telegraph, and telephone companies.

SESSIONAL PAPER No. 20c

If the Canadian Pacific Railway Company had in the early days established a system of flat-rate contracts for transporting traffic, say, from Montreal to western points, could these contracts stand in the face of the toll clauses of the Act? Could a flat-rate contract by a railway company to deliver a commodity of its own transported from Montreal to a western point stand as against a shipper from Winnipeg of a like commodity with a discriminating rate against the latter, and if not as to a railway company, why as to a telegraph company?

In the written argument put in by the respondents after the hearing the following appears:—‘A railway company may sell its surplus coal at so much per ton to residents at Winnipeg, and what it cost to haul that surplus coal to Winnipeg need not enter into the price. The sale price of the coal sold under those circumstances need not be considered on a complaint as to the rate charged by the railway company for hauling coal to Winnipeg. The two matters are absolutely separate and distinct, and bear no relation to each other.’

Let us pursue this coal illustration. Suppose a railway company has a coal (newsgathering) mine at Montreal, and the applicants have a like mine at Winnipeg, and Saskatoon is an important point of consumption; can the company deliver its commodity to the Saskatoon consumer at \$4 per ton, including both the value of the commodity and cost of haul, and charge the Winnipeg producer \$5 per ton for hauling alone? If this were permissible the railway companies owning coal areas could close up every mine but their own; and in like manner telegraph companies could put out of business every newsgathering agency that dared to enter the field of competition with them, if it were lawful for them to use the public utilities that are entrusted to their operation, viz., the telegraph lines and stations, upon a system of flat rate contract irrespective of cost or rate of transmission.

It seems clear that those flat rate contracts must be based as well upon cost of transmission and delivery as of collection or gathering, and that tariffs of tolls covering all this class of service must be filed; these tariffs must be so framed as not to work discrimination against the applicants, or any other person, or association, engaged in like work. It is no answer to say the service in the past has been performed at a loss,—the question is solely one of the legality of the practice. It seems clear that the Act prevents its continuation and it must be discontinued.

Tariffs should be filed by February 1, 1910.

Order dated January 8, 1910, issued accordingly.

J. A. Maddaugh v. Canadian Northern Railway Company.

This was an application by complainant for a joint tariff from stations on the Vancouver, Westminster & Yukon Railway between Vancouver and New Westminster to points on the Canadian Northern Railway.

Judgment, Commissioner McLean, January 7, 1910.

At a hearing before the Board in Vancouver on February 23, 1909, a complaint was made by the present applicant which led to the issuance of order 6612 directing that:

The Great Northern Railway Company operating the Vancouver, Westminster and Yukon Railway shall forthwith file and publish rates on lumber, shingles and articles taking the same rates via New Westminster or Vancouver in connection with the Canadian Pacific Railway Company as follows: From points on the Vancouver, Victoria and Eastern Railway and Navigation Company's line between Vancouver and New Westminster not inclusive to points on the Canadian Pacific west of Winnipeg, except such points as may be routed direct by the Great Northern Railway and its connections; rates based upon one cent per hundred pounds higher than rates maintained from Vancouver by the Can-

1 GEORGE V., A. 1911

adian Pacific Railway Company, the Vancouver, Victoria and Eastern Railway and Navigation Company to be allowed two and one-half cents per hundred pounds.

At a subsequent date, order No. 7277 was issued making the arrangement general as regards Canadian Pacific points by removing the original limitation as to points west of Winnipeg.

In the complaint before us the same applicant states that on a shipment of four cars of lumber from Maddaugh Siding, British Columbia, on the Vancouver, Westminster and Yukon (Great Northern) to Stony Plains, Alberta, he has been charged the through rate from Vancouver to destination, plus the local (3 cents) from Maddaugh Siding to Westminster, and he alleges that the charging of the full local is in contravention of order No. 6612, and that by such contravention he has been overcharged \$52.18, for the refund of which he makes application.

When the cars in question were presented at Maddaugh Siding, the Great Northern would not accept them routed Great Northern and Canadian Northern to points of destination. This refusal was on the ground that the Great Northern had no published tariff between the points in question. The Great Northern further states that it has no through rates from points on its system in Canada to points on the Canadian Northern west of Neepawa and Gladstone. Consequently the traffic moved from Westminster to destination over the Canadian Pacific and Canadian Northern under joint tariff, C.R.C. No. W. 847. The Great Northern not being a party to this, the full local was charged to Westminster.

Order No. 6612 recites that it applies to points or destination on the Canadian Pacific west of Winnipeg, 'except such points as may be routed direct by the Great Northern Railway Company and its connections.' The same exception is found in order No. 7277. This exception draws attention to what took place at the hearing in February, 1909. During this hearing the question was raised by the Chief Commissioner: Should not all points on all railways west of Winnipeg be included on the same rating arrangement? Mr. Lanigan stated that:

they already reach on the 40 and 50 cent rate all points on the Canadian Northern via the Great Northern at the same rate we make from Westminster to contiguous points.

In amplifying this statement he said that his company (the Canadian Pacific) had in effect with the Canadian Northern joint rates from Westminster and Vancouver, one cent over the Great Northern through rate. The Board misunderstood the scope of Mr. Lanigan's explanation—it now appears that the through rating arrangement between the Great Northern and the Canadian Northern did not extend to points west of Gladstone and Neepawa. The misunderstanding arose, not from misrepresentation, but from the fact that the Board had not at the time before it the tariffs which would have given technical information as to the scope of the rating arrangement in question.

The original order as well as the amending order shows by reference that it was understood that the traffic, concerning a portion of which complaint now arises, was covered by existing tariff arrangements. But, we are not limited to mere inference. As a participant in the original hearing I may say that, it was only because of the Board's understanding that the traffic was so provided for, that it was not covered by the order.

It being apparent that the existing rate situation does not provide in respect of Canadian Northern points the arrangement which the Board omitted from the order under the conditions indicated, provision should be made for it. The Canadian Pacific has in force with the Canadian Northern joint tariff, C.R.C. No. W. 847. I am of opinion that the recommendation of the Chief Traffic Officer of the Board should be adopted, viz:—

SESSIONAL PAPER No. 20c

That an order issue on the lines of order 7277 to apply to points on the Canadian Northern covered by the Canadian Pacific Railway's joint tariff, C.R.C. No. W. 847, or as it may be amended, via Vancouver or New Westminster, and the most convenient and practicable points of interchange between that company and the Canadian Pacific, and that the Canadian Pacific and the Canadian Northern be directed to agree upon the apportionment of the said through rates after deducting the proportion which the order allows to the Vancouver, Westminster and Yukon.

The conditions which led to the exception of the Canadian Northern from the original order having been made clear, the companies should be at liberty to refund the sum of \$52.18, whereby the change as made is in excess of the charge on the basis provided for in the original order, concurred in by the Assistant Chief Commissioner.

Sudbury Board of Trade v. Canadian Pacific Railway Company.

The Board of Trade of Sudbury, Ontario, complained that the joint rate charged by the Canadian Pacific Railway Company on coal from the Niagara Frontier to Sudbury was unreasonable and discriminative as compared with the rate charged by the Grand Trunk Railway from the Niagara Frontier to North Bay, Ontario.

Judgment, Commissioner McLean, January 12, 1910.

The complaint of the Board of Trade of Sudbury proceeded in the first instance on the assumption that there was a rate of \$2.15 per ton on coal Toronto to Sudbury, via Canadian Pacific and Canadian Northern Ontario Railway. Complaint was made that the rate was excessive as compared with the rate of \$1.15 from Toronto to North Bay, via Grand Trunk. Toronto to North Bay is 227 miles, while Toronto to Sudbury is 267 miles.

It was found on further examination, that the applicants in complaining of Toronto rates were under a misapprehension in regard to the tariffs actually in existence. The coal concerning which complaint is made moves to destination on through bills of lading from Black Rock, New York. The argument of the applicants is that by deducting the published rate from Black Rock to Toronto, viz. 60 cents per ton, the balance of the through rate from the frontier must represent the local rates from Toronto to Sudbury and North Bay.

It is true that the Canadian Northern Ontario publishes \$2.15 per ton from Toronto to Sudbury, but their tariff explains that this is a proportional rate on shipments received from connecting lines; their object being to make the through or combination rate by their route the same as by the others. The Canadian Pacific Railway does not charge this rate from Toronto to Sudbury, nor does the Grand Trunk charge the balance, viz. \$1.15 from Toronto to North Bay as stated by the complainants.

The rail haul conditions on the two movements are as follows:—

	Rate.	Mileage.	Ton mile Rate.
Black Rock--North Bay via G.T.R.....	\$1 75	316	554
Black Rock--Sudbury, M.C.R., T.H. & B. and C.P.R.....	2 75	359	766

It is to be noted that while the ton mile rate of the Grand Trunk to North Bay is lower it is that of a single line shipment, while in the Black Rock—Sudbury movement it is a three line movement.

While reference was made in the complaint to the Grand Trunk rate from Black Rock to North Bay as indicative of the unreasonableness of the rate to Sud-

1 GEORGE V., A. 1911

bury, this is not conclusive. The traffic compared moves over two different routes. This precludes the mere reference to differences in mileage rates being taken as *prima facie* evidence of discriminatory treatment. For the fact that two different lines of railways are being compared creates an initial dissimilarity of circumstances. There were not, however, even a *prima facie* showing that the movements were 'under substantially similar circumstances.' The fact that the Canadian Pacific meets via Sudbury the Grand Trunk rate on coal to North Bay, is not conclusive as to the proper basis of rates to Sudbury. This is simply another example of the familiar case where the rate on competitive traffic is governed by the short line mileage.

From Toronto coal moves to Romford Junction on the Canadian Pacific, within seven miles of Sudbury, on a rate of \$2 per ton. Some discussion has arisen as to the scope to be given this rate. Mr. Hardwell speaks of this as the 'Toronto to Sudbury' rate. Mr. Bulling states that there is no commodity rates in effect on coal from Toronto to Sudbury, or points in the vicinity, and that the regular tenth class rate is 18 cents, equivalent to \$3.60 per net ton. Mr. Hardwell replies that while this special mileage tariff on coal is limited to the Ontario division terminating at Romford Junction, the Official Standard Mileage Tariff as approved by the Board describes the line between Toronto and Sudbury inclusive as part of the Ontario division. I am of opinion that this action of the Board amounts to a declaration that if the special mileage tariff is to be limited to the Ontario division, bearing in mind the limits of such division as officially recognized by the Board, then this \$2 rate should be applicable to Sudbury inclusive.

In view of what has just been said it is unnecessary to develop the point that in the question of rate regulation it is not operative divisions arranged with a view to convenience of administration, but traffic conditions which are important.

The situation from Black Rock to Sudbury presents once more the situation where a through rate exceeds the sum of the locals. The 60 cent rate from Black Rock is alleged to have been competitive in its origin. And reference is made to effective water competition leading to its creation. If it were a rate created to meet water competition and continuing only while such competition existed, there would be a doubt in my mind whether this compelled rate should be taken as the measure of the reasonableness of a through rate to a point beyond. But, in this case, whatever may have been the origin of the 60 cent rate, it is now a rate in effect the year round and open to all. It cannot now be given exceptional treatment on the ground that it is competitive. It is in fact, part of a system on which rates in the territory in question are built.

Coal may be shipped into Toronto on the 60 cent rate and shipped out on the \$2 rate. It might be argued that the through rate should be less than the sum of the \$2 and the 60 cent rates. When the coal is shipped in and delivery taken by the dealers, who subsequently redeliver it to the railway for shipment out, terminal services are performed which are additional to those called for on a through movement. It may be that if a through rate were being worked out as between the railways, this might have some additional effect on the rate. Be this as it may, we have not before us the material necessary for such a calculation. The Board has already expressed the opinion that where a through rate exceeds the sum of the locals, the burden of proof that such excess is not unreasonable should be on the railways. In this instance the onus has not been withstood. Accordingly, the rate from Black Rock to Sudbury in so far as it exceeds the combination of \$2.60 per ton is unreasonable.

The companies should, by March 1, 1910, publish and file a joint rate from Black Rock to Sudbury, not exceeding \$2.60 per ton.

The complaint has also raised the question of the limits of the Ontario division so far as special mileage tariffs are concerned. I have already indicated my opinion so far as the special case before us is concerned. But, in order to bring the special mileage tariff into line with this ruling, a readjustment should be made. This should

SESSIONAL PAPER No. 20c

be done in the case of other special mileage freight tariffs if there are such in existence. Otherwise there may be additional rulings on this matter; and this may be obviated by dealing with the question now.

When the Canadian Pacific's Sudbury line was opened, the Board required the removal of the dividing line as between the lower eastern and southern mileage rates from North Bay to Sudbury, and the standard tariffs were amended and approved accordingly. Subsequently, the company's mileage tariff on grain and its products has been amended on the invitation of the Board.

To prevent any future misunderstanding as to the scope of the mileage tariff, there should be a direction that the special mileage rates on coal and coke, in carloads, published in the Canadian Pacific Railway's special tariff, C.R.C. No. E. 660, applying 'between stations on the Ontario, Lake Superior (east of North Bay) Eastern and Atlantic divisions where specific rates are not published, or when lower than shown in (specific) tariff' should be extended so as to include the Lake Superior division, Sudbury and East so as to conform territorially to the company's approved standard mileage freight tariff, C.R.C. No. E. 1244. This should be effective by February 7, 1910.

In the case of all other of the company's special mileage freight tariffs (if there be any) in which the point of separation between the rates of the Lake Superior division and the lower eastern scale may be east of Sudbury, there should be the same amendment as indicated above. This amendment should be effective by March 1, 1910.

The Chief and Assistant Chief Commissioner concurred, order January 12, 1910.

The British Columbia Sugar Refining Company v. The Péré Marquette Railroad Company.

Judgment, Commissioner McLean, February 23, 1910.

On February 1, 1910, the British Columbia Sugar Refining Company telegraphed the Board, stating that the Péré Marquette Railroad Company had issued a tariff quoting a rate of sixty cents per hundred pounds on sugar in car lots, Wallaceburg to Winnipeg, via Chicago and Duluth; and also quoting sixty-eight cents to Portage la Prairie and seventy-one cents to Brandon.

The Refining Company stated that :

In order to meet this competition of alien railroad we ask for a sixty-cent rate from Vancouver to Winnipeg and proportionately reduced rates to Portage la Prairie and Brandon.

In their letter of February 1, 1910, the Refining Company raises another ground for application, in the following language:

The Commission, by their order, No. 4886, dated June 16, 1908, instructed the Canadian Pacific Railway Company to restore the arrangement whereby rates on sugar in carloads from Vancouver to Portage la Prairie was made the same as from Montreal to Portage la Prairie, thus making Portage la Prairie the meeting point for competition between the eastern and western sugar refineries. All rail rates from Wallaceburg to the west, up to the present time, have been the same as from Montreal, namely, to Winnipeg 71 cents, Portage la Prairie 75 cents, Brandon 82 cents, and we think Canadian railroads would not have interfered with the policy of the Board of Railway Commissioners as laid down in their order above referred to. The action of the Péré Marquette Railroad and its *American* connecting lines in quoting such large reductions in all-rail rates to Winnipeg and Brandon, seriously interferes with our business and we urgently appeal to the Board of Commissioners to grant us speedy relief from the present conditions. We respectfully ask that we may be given the same rate to Winnipeg

1 GEORGE V., A. 1911

from Vancouver as Foreign railroads are now quoting to Winnipeg from Wallaceburg; and also that the rates on sugar from Vancouver to Portage la Prairie and Brandon may be proportionately reduced.

A reference to the order in question shows that it is a direction to the Canadian Pacific Railway:

To restore the arrangement whereby the rate on sugar in carloads from Vancouver to Portage la Prairie was made the same as from Montreal to Portage la Prairie.

A consideration of the terms of the order as well as of the material spread on the original record in connection with the issuance of this order, renders it obvious that the order refers to the particular facts brought up in the case of a particular railway. No other railway was joined in the issue. The order is a direction to the Canadian Pacific in respect of traffic moving over its own lines under its own tariffs.

It is not alleged that the Canadian Pacific Railway has departed from this direction. The statement already quoted from the refining company's letter shows that it is 'the action of the Péré Marquette Railway and its American connecting lines,' which is complained of.

In view of what has been said, it is apparent that the interpretation the refining company places on the order in stating that it made Portage la Prairie

the meeting point for competition between the eastern and western sugar refineries.

errs when it alleges that this laid down a general direction in regard to this traffic irrespective of the particular facts leading to the issue of this order.

Mr. Beatty in his reply for the Canadian Pacific Railway, under date of February 18, 1910, says:

It may be quite true, as pointed out by the complainants, that a reduction has been made which enables the competitors of the complainants in Wallaceburg to have the advantage of lower rates to the three points mentioned than they obtained formerly, but that is not a condition for which the Canadian Pacific Railway Company is at all responsible. If a competing company wishes to make a substantial reduction in rates for the purpose of giving advantage to a refinery situated on its own lines it is, I presume, at liberty to do so, but by doing so it cannot compel other railway companies on whose lines competing refineries are situated to make similar reductions in their rates to common points.

A railway must of necessity be given a very considerable discretion in regard to meeting competition, and the forms of competition to which it is subjected are varied. It is patent that if a railway establishes a rate between Toronto and Winnipeg, it is entirely in the discretion of another railway connecting such points whether it shall or shall not meet this rate. If the second railway should decide not to meet this rate, this does not of itself give the Board jurisdiction to order it to meet the lower rate. The Board has time and again recognized that it is within the discretion of a railway to meet the competition of short line mileage. The discretion of a railway in regard to meeting water competition has been so often emphasized by the railway regulative bodies of Canada, England and the United States, that mention of it alone is sufficient.

In the peculiar form of competition here presented which may be called either market or trade competition, we find the products of refineries located in different portions of Canada in competition. Here, again, it is in the discretion of the railway whether it shall so adjust its rates as to equalize the effects of such competition. This is not simply a question of analogy from what has been decided in regard to other forms of competition; it is a question of authority as well.

In deciding that it could not order a reduction of the rates on paper stock to meet market competition, the Interstate Commerce Commission based its finding on

SESSIONAL PAPER No. 20c

the ground that 'railroads are authorized to meet or not to meet competition as to them seems to their interest.'

La Salle Paper Co. vs. Michigan Central Railroad Co., et al, I.C.C. 150.

A similar position is also taken by the English Railway and Canal Commission:

Lancashire Patent Fuel Co., Ltd., vs. London and North Western Railway Co., et al, XIII. Railway of Canada Traffic Case 79.

The Board has officially recognized the fact that it is within the discretion of railways whether they shall meet trade or market competition. Order No. 7325 of June 22, 1909, was issued on the basis of the report of the Chief Traffic Officer of the Board. This report in recognizing that the law did not place on railways the burden of equalizing conditions at final destination for shippers located in different sections said:

I do not consider that the companies should be compelled so to adjust their rates as to make it possible for a manufacturer to sell his goods in a distant market in competition with a competitor on the spot.

The matter was also specifically passed upon by the Board in the application of the Montreal Produce Merchants Association, June 23, 1909, in which it was stated:

It is in the discretion of the railway whether it shall or shall not make rates to meet the competition of markets.

It appears, then, that it is entirely in the discretion of the Canadian Pacific Railway whether it shall meet on the movement of sugar from Vancouver to Winnipeg and the other points mentioned in the complaint, the rates introduced by the Péré Marquette Railway, from Wallaceburg to the same points, and the parties should be so advised.

The Assistant Chief and Commissioner Mills concurred.

Elder, Dempster and Company v. Canadian Pacific and Grand Trunk Railway Companies.

Judgment, Chief Commissioner Mabey, March 16, 1910.

This is an application made under section 323 of the Railway Act 'for an order directing the respondents to apply the established export basis covering general merchandise and commodities shipped from points in eastern Canada to Montreal, St. John, and Halifax, for export to Vancouver, Victoria and other British Columbia points.'

The Elder, Dempster Company is a steamship line operating, during the winter months, from St. John and Halifax to, among other points, Puerto Mexico, which is the eastern terminus of the Tehuantepec National Railway, and it has for some months been carrying traffic destined for British Columbia points, delivering it to the Tehuantepec National Railway at Puerto Mexico, the railway in turn delivering this traffic at its western terminus, Salina Cruz, to the Canadian Mexican Steamship Line, which carries it up the Pacific coast to Vancouver, Victoria, and other British Columbia points. There is at present no joint tariff between these three carriers making up this through route from St. John and Halifax to British Columbia points, but one was said to be in course of preparation; and it was said the Elder, Dempster Company quoted rates over this route some 25 per cent lower than the all-rail rate from Montreal and other eastern points to British Columbia points. It was stated that as to the traffic that had already moved, the applicants, the Tehuantepec National Railway Company and the Canadian Mexican Steamship Company, had divided the through rate equally, and that it was the intention to do the same when the tariff was finally arranged.

1 GEORGE V., A. 1911

The Canadian Pacific Railway Company and the Grand Trunk Railway Company have tariffs on file with this Board giving much lower rates upon export traffic than upon domestic traffic. For instance, the export rate upon canned goods, Hamilton to St. John, is 21 cents, while the domestic rate is 32 cents; upon the same commodity the export rate to Halifax is 22 cents, the domestic 33 cents; Hamilton to Montreal, export 19 cents, domestic 25½ cents; a great variety of commodities are covered by these export tariffs, on most of which the variation between the export and domestic rates is not so great as upon canned goods. Without attempting to be exact it might be said that, roughly estimated, upon all the traffic covered by these tariffs the export are about 10 per cent lower than the domestic rates.

The system of export rates was established by the railway companies for the benefit of the Canadian producers, and the tariffs covering these rates make them applicable only to traffic moving to British or foreign points, and as they are framed they do not apply to traffic destined to points in British Columbia. The application is to compel either their amendment, so they may be applicable to such traffic, or that the railway companies be directed to file tariffs that would be applicable to such traffic.

The products of Canada that move under the export rates come into competition in British and foreign markets with those of many other countries, and to meet such competition and to permit reaching these markets, the railway companies make these reductions in the rate to the seaboard; the same system prevails in the United States, and all the rail export trade of both countries moves under these tariffs. This system grew up years before the Tehuantepec route was in existence, and these tariffs when framed were not intended to apply to traffic moving to British Columbia points. The question is whether it is fair and proper, assuming, but without deciding, that there is jurisdiction, to require the application of these tariffs to traffic moving over this new route.

It was argued that the movement under these export tariffs would build up a trade that did not now exist; but it was clearly established upon behalf of the railway companies that they have for years been carrying to British Columbia points exactly the same class of articles that might go to the same points over this water and rail route; so that the result of applying these export rates to this traffic would be to compel the companies to divert their long haul westbound business to a short eastbound haul under a low rate; and for whose benefit?

This application is made by the Elder Dempster Company and supported by the Canadian Mexican Steamship Company. All the traffic that could be diverted to this route would add to the receipts of these companies and the Tehuantepec National Railway Company. Upon the face of the matter, then, it is a struggle to obtain from the railways part of their westbound traffic; and it is by no means clear that the shippers would obtain any material benefit if the application succeeded.

The rates over these railways are under the control of the Board; the westbound rates have been adjudged reasonable and fair; if at any time, owing to changed conditions, it is thought that they should be reduced, it is open to any one concerned to apply, or the Board, upon its own initiation, can reduce them. How about the rates over this Tehuantepec route? All the traffic over it would be carried by the applicants to Puerto Mexico. There is no competition between St. John and Halifax to that point; there is only one railway across the Isthmus, and the Canadian Mexico Steamship Company carries all the Canadian traffic from Salina Cruz. The rates over this route, even from St. John and Halifax, have to be submitted for approval to the Mexican government, as the following extract from the evidence of Mr. Worsnop, manager of the Canadian Mexican Company, will show:—

Q. You said that your through rates were subject to control by the Mexican government?—A. Yes.

SESSIONAL PAPER No. 20c

Q. That is, even the rate from Montreal say around to Victoria?—A. It has to go for the approval of the Tehuantepec Railway, which then submits it to the government, and it is approved.

Q. That is the whole rate has to go?—A. Yes.

Q. Not just the Tehuantepec proportion?—A. The through rate, I understand.

Q. That would seem to be an extraordinary thing. I wanted to make sure that I understood you, that that rate over which the government of Mexico had really no control, and practically no interest, so long as the Tehuantepec got a proper share, should be subject to that control.—A. It does seem a very extraordinary thing, I will admit, but that is what the railway company inform me. That is the excuse I get every day, that we have to submit the whole thing. That is my information.

Q. On what basis do the Mexican government pass upon the reasonableness of the through rate?—A. I am not aware, I do not know anything of their deliberations outside.

Q. You do not know of any particular rate that has received their approval as a through rate, do you?—A. All the rates, so far as I understand. If there is an alteration in the rates—an alteration in any one item, so far as we are aware it comes to us for approval, and then it is submitted, according to the freight traffic manager's letters, back to the Mexican Commissioner for his final endorsement.

Hon. Mr. MABEE.—You used the expressions alternately, 'Mexican Commissioner' and 'Mexican Government.' I thought the road was operated jointly by the Pearsons, and somebody representing the government.

Mr. WORSNOP.—I do not know under whose control, whether it is a commission, or the minister. I only used the word 'Commission.' There is a minister, or some official, whom they have to consult. The operation of the road is simply a matter of equal shares. The Mexican government take a half and the Pearsons take half.

Mr. Kelly of the Elder Dempster was called, and with reference to the through rate the following is an extract from his evidence.

Hon. Mr. MABEE.—Are you not at liberty to carry from here, Montreal, or from St. John to Puerto Mexico, through shipments to British Columbia points at any charge you choose from here to Puerto Mexico, so long as the shipper pays two-thirds of the through rate to the other two carriers?—A. No, that is not as I understand it.

Q. What is there to prevent you?—A. There is nothing really to prevent us, but we do not do it.

COMMISSIONER McLEAN.—Does the Tehuantepec Railway charge a higher rate on a shipment like that than the through rate? Supposing a shipper just ships to Puerto Mexico?—A. They would charge their local rate further.

Hon. Mr. MABEE.—How would they know it? You turn over to them two-thirds of the through rate, do you not?—A. Yes, but they have no rate in effect from Puerto Mexico or Salina Cruz to Vancouver.

Q. What is there to prevent your sending shipments right straight through and making any rebate you choose between here and Puerto Mexico?—A. There would be nothing; but we do not do it.

Q. What is there to prevent your doing it if you choose?—A. There would be nothing.

Hon. Mr. MABEE.—Then if the Mexican Railway Company compels you to charge more than you are willing to charge a Canadian shipper from the Canadian point to British Columbia points, what would be morally wrong about

1 GEORGE V., A. 1911

your making the shipper a rebate?—A. The only thing we know is that we have not done it before. We know we will always live up to our rates.

Upon the hearing, I expressed the opinion that the Board should be satisfied by reasonable evidence that the through rate now quoted over this route was a reasonable one, and further consideration has strengthened this view. Those three carriers quote to shippers a certain rate over this route; two of the three join in this application to compel the railways to assist in moving traffic over it. Why should the railways, and not the applicants and the Tehuantepec National Railway Company do the cutting? We were given no information whatever of the reasonableness of either the through rate quoted by the applicants, or the reasonableness of the division between the three carriers concerned. It would appear that steamship companies are entirely in the hands of the Tehuantepec National Railway Company or the Mexican government, or both, not only as to the total through rate, but also its division, and that the applicants cannot quote a rate to Puerto Mexico, without the consent of the railway company. Supposing the present through rate over this route is highly remunerative to the three carriers, and that they could well afford to absorb the difference between the domestic and export rail rate, would it be fair to compel the railways to apply the export rate and thereby swell the receipts of the applicants at the expense of the railways' traffic? If the rates over this joint ocean and rail route were under the control of this Board, one would have the machinery to work the matter out, and would be able to give the shippers all the benefit of this competition, and at the same time preserve some reasonable proportion of profit between the competing routes; but as the matter is presented, we have carriers outside of the Railway Act, free and unfettered as to external control over rates and facilities, attempting to make use of the Act to divert to themselves the legitimate traffic of the railway companies by the enforced application to that traffic of tariffs that were not intended to apply. So long as there is no government control over ocean traffic, control over the land rates must necessarily produce the exporter or importer but a limited benefit. In the present case, upon a shipment from Hamilton to Montreal this Board has control over the rate for that 375 mile haul, and it is that power that is asked to be exercised that traffic may be moved from Montreal to Victoria, 7,000 miles, at rates to be established at the carriers' will, and free from control or interference. The Board is anxious that the shipper should be allowed to avail himself of every competitive condition of carriage, and every available route, but in the exercise of its powers must have equal regard to the interests of all concerned; and while the granting of this application might have some advantage to shippers of certain commodities, it seems, upon the information now before us, that it should be refused.

A very considerable volume of traffic has moved under the domestic rail rate over this route; what is there to guarantee the shipper that if the export rail rate were applied, the through rate in question would not proportionately rise? It could be put up apparently by those controlling the Tehuantepec National Railway Company, even against the protests of the two steamship companies, and if that were done, how would the shipper have been benefited by the granting of this application, and would not the railway companies have been injuriously affected by an improper or unwise exercise of the powers of the Board? If the alternative ocean route were under control, one could preserve the existing rate, if that were proper, to the shipper, or otherwise deal with it as might be just, but as matters stand the position does not justify our interference.

In the Seattle rate case the Interstate Commerce Commission referred to traffic originating in South Bend and destined to Spokane, going via New York over the Tehuantepec National Railway Company, thence to Seattle and by rail to destination; also that the route offered active competition to the railways as to all traffic originating east of a line drawn between Buffalo and Pittsburg, and it is interesting to note that all the traffic that has moved via this route has carried the domestic and not the

SESSIONAL PAPER No. 20c

export rail rate. No application has been made to the Interstate Commerce Commission similar to the present, and if this traffic can move from eastern United States points to New York under the domestic rate, I do not see why it cannot here.

The applicants, in the alternative, asked for the application of the tariffs for 'furtherance' to Maritime Provinces, Newfoundland, the West Indies, &c., in the event of not getting the export rate. This was not covered by the formal application but was discussed at the hearing. These so-called 'furtherance' tariffs are the necessary result of competitive conditions at Boston and New York, and compelling their application to this British Columbia traffic would be more equitable than requiring the railway companies to apply the export rate.

It was argued for the applicants that if they were unsuccessful in obtaining relief, Canadian traffic for British Columbia points would go via New York, and the haul would be lost to the Canadian railways as well as by the Elder Dempster Company. It would seem, however, from a regulation of the Customs Department, that this is not possible, as unless the traffic went in British ships from New York to Puerto Mexico, they must be treated upon arrival at British Columbia ports as imported, and would be liable to duty. The following is the regulation:—

Except as otherwise ordered, goods in transit from one part of Canada to another part of Canada, wholly or partly by water carriage through the United States, shall be transported in British registered vessels under Customs manifests, and the transfer of such goods from car or vessels, and vice versa, shall be made in the presence of a special officer of the Canadian Customs and be certified by him. The salary of the special officer shall be paid by the carrier applying for his services.

The water route travelled by the Canadian-Mexican Steamship Company from Salina Cruz to British Columbia ports is covered by an order in council of May 29, 1909, granting that company an additional subsidy of \$25,000 upon the understanding that 'the steamships performing the service on the Pacific shall fly the British flag.'

It will, of course, be understood that the reasonableness of the westbound rail rates are not involved in this controversy. They are not attacked either in evidence or argument, and the sole contention was that the eastbound export rates should be arbitrarily applied to this new route.

Upon the facts as they now stand, no order will be made: but the dismissal of the application must be without prejudice to the rights of any person interested in this matter to any relief the Board may deem proper upon a different set of facts being presented to it.

The Deputy Chief Commissioner and Mr. Commissioner McLean concurred.

Empire Refining Company, Limited, v. The Péré Marquette Railroad and the Chatham, Wallaceburg and Lake Erie Railway Company.

The CHIEF COMMISSIONER.—The refining company has a plant at Wallaceburg, Ontario, and asks that the railway companies above named be required to provide adequate and suitable tank car equipment to enable the complainant to transport properly its finished product from its works to points in Canada.

The application was not seriously pressed as against the electric railway company and it was released at the hearing.

The case against the Péré Marquette is based upon an agreement which was put forward by the applicant company as follows:—

Before we began to build we took up the question of the supply of tank cars with the Péré Marquette Railroad Company, and the Péré Marquette through their Mr. R. W. Yonge, district freight agent at London, assured us that they would supply us with all the tank cars we might need. They said they had none

1 GEORGE V., A. 1911

of their own, but they had made arrangements with another railway company whereby they would interchange their tank car equipment, and they assured us we would have all the cars we wanted. . . . We were ready to ship about January 25, 1910. Some days before that we took up the question of supplying cars with the Péré Marquette. . . . On February 5, we got three cars from the Péré Marquette, which was Grand Trunk Railway equipment. The applicant company also got two more Grand Trunk Railway tank cars through the Péré Marquette since the application was launched.

The agreement above referred to was made about the middle of the year 1909. The company says it requires about thirty tank cars per month; and to keep its business going, it has been compelled to lease 12 tank cars from Chicago, for which it pays \$26 per month each. It was said that, both in Canada and the United States, from 75 to 80 per cent of the refined product goes in tank cars. The agreement above contended for the applicant company was not denied by the Péré Marquette Railroad Company; but they say that their tariffs on petroleum state that tank car equipment shall be furnished by the shipper and that rates are projected upon that basis; that these are special cars for that particular traffic and cannot be used for anything else. This is probably all quite true, but it does not go to the root of the application.

Section 1 of 8 and 9 Edw. VII., chapter 32, provides as follows:—

Where it is complained by . . . any . . . corporation . . . that the company has violated or committed a breach of an agreement between the complainant and the company . . . for the provision . . . by the company . . . of any . . . equipment . . . in connection with the railway, the Board shall hear all matters . . . and shall make such order as to the Board may seem . . . reasonable.

Now, if a railway company, for the purpose of inducing a refinery to locate upon its line, agrees to supply tank car equipment, why is it not reasonable that it should fulfil its agreement? The case is not being considered from any point of view, except that of the agreement, nor is it at present suggested upon the facts disclosed that, apart from the admitted agreement, the Board would require the railway company to furnish this equipment. It was said that this promise was a material element in the applicant company's locating and investing its capital at Wallaceburg, and that its breach has seriously hampered its operations and has submitted it to loss. The existing tariffs do not prevent the railway company from adding tank cars to its equipment; it need only file supplements showing the tolls when moved in its own tank cars.

We quite appreciate the importance of the principle involved in asking a railway company to provide a large number of tank cars where it has but one refinery upon its lines; but the answer is that it agreed to do so; and we see no reason why its agreement should not be carried out. It makes no difference whether the cars supplied are the property of the respondent or obtained from other sources. The bargain was to supply tank car equipment; so the order will go as follows:

'That the Péré Marquette Railroad Company be, and it is hereby, required and directed to supply The Empire Refining Company, Limited, at its plant in Wallaceburg, with all the tank car equipment required by the said refining company in the operation of its refinery from time to time as the same may be required and ordered by the said refining company for shipment to points in Canada.'

The Assistant Chief and Mr. Commissioner Mills concurred.

Operation of Mixed trains—Windsor, Essex & Lake Shore Rapid Railway.

By general order of the Board, dated November 25, 1908, the railway companies subject to the legislative authority of the Parliament of Canada, were forbidden to handle freight cars in through main line passenger trains unless such freight trains

SESSIONAL PAPER No. 20c

were equipped with air brakes, steel tired wheels and special trucks designed for use in through passenger train service, with the qualification that every such company should be at liberty to use such freight cars in its through passenger service where its baggage cars or freight cars, especially equipped as aforesaid, become disabled or unfit for use in transit, and such cars only are available to receive the baggage and freight to avoid unnecessary delay in forwarding the same.

The Board has held that this order does not apply to mixed trains.

Judgment, Mr. Commissioner Mills, January 4, 1909.

After careful perusal of the papers in this file and Mr. Dillinger's report, dated January 25, 1909, I think there is no risk in allowing the company to run a mixed train service on its line, using a trailer or trailers on the rear end for passengers provided each trailer and all freight cars between the locomotive and the trailer are fully equipped with automatic air-brakes, on condition, however, that the company will not handle freight cars in mixed trains within the limits of the town of Windsor, or between the town switch and the company's power house at Kingsville. The Steam roads have all along been running such mixed trains on their lines; so I see no reason for refusing the application of this company, where the schedule rate of speed is 15 miles per hour.

I think, in addition to the order, a communication should be sent to the company intimating that the Board expects it to have all its passenger and box-cars furnished with automatic air-brakes at an early date, and all its flat cars with hand brakes; and that it is to notify the Board when the work herein suggested has been completed.

Toronto Viaduct Case.

Judgment, Assistant Chief Commissioner Scott, December 24, 1908.

The Board has had the question of the elimination of grade crossings along the water front at Toronto before it for some time. After the unfortunate fire which occurred in Toronto in 1905, when most of the industries south of Front Street to the railway tracks from York to Yonge Streets were destroyed, the Grand Trunk Company applied to the Board and obtained authority to take the territory mentioned for the purposes of a new union station.

After considerable delay on account of litigation the property for the new station was acquired, and an application was made to the Board for the approval of the station plans. These plans, however, could not be approved until the question of what grade the tracks should be on were determined.

The grade crossings at Yonge and Bay streets have been a source of very great danger and much annoyance on account of delays caused by the blocking of the crossings by passing trains, not only to the citizens of Toronto who visit the island and the water front during the summer months, but also the large passenger and freight traffic which goes to and from Toronto by boat during the months of water navigation. This danger and source of annoyance also exists at other grade crossings but not in as aggravated a form. Different methods have been suggested as to what would be the best solution of a situation which is generally recognized to be an intolerable one.

In November, 1907, a plan was submitted to the Board by the Toronto Board of Trade of a viaduct upon which four running tracks were carried at a height which would permit of the passage of vehicular traffic, including trolley cars under these tracks on the different streets which run to the water front. This plan showed the commercial sidings and team loading tracks of the railways remaining at street grade.

A formal application was made to the Board some months later by the municipal council of the city of Toronto, for an order compelling the railways to raise all their

1 GEORGE V., A. 1911

tracks, including commercial sidings and team loading tracks, to a sufficient elevation to permit of free passage on the highways under the tracks as in the Board of Trade plan.

At the recent sittings of the Board in Toronto, this viaduct scheme was strongly opposed by the railways on the grounds of excessive expense and the inconveniences it would cause to the railways and the shipping interests.

As an alternative proposition the railways suggested that bridges be built carrying the highways over the railway tracks. Such structures to be erected at the different streets leading to the water front, as and when they became necessary in each particular case—the railways admitting that bridges should at once be built at Yonge and Bay Streets. I think that as the railways will have to pay the major portion of the expense of any scheme for the elimination of grade crossings at Toronto, and in other ways have a very large interest in the method, whatever it may be, that is to be adopted to bring about the desired results, their scheme should receive our most serious consideration and their suggestions followed, if it is not incompatible with the best interests of all concerned.

I have come to the conclusion, however, that in this case the plan of carrying the highways over the railways by bridges should not be adopted for any of the streets east of John Street. Bridges at Bay, Yonge, and the streets east of Yonge, would not only prove excessively expensive because of the great quantity of filling that would have to be done in the bay, and the undoubtedly very great, but at present inestimable land damages at both their north and south ends which would have to be paid, but would be most injurious to the commercial industries along the water front and be inconvenient to every one having to use them.

The Railway Act requires bridges over railways to have a clearance of twenty-two feet six inches from the top of the rail to the bridge, but gives the Board power under special circumstances to reduce this space. It seems to me that if there ever are cases where the Board would be justified in departing from the principle adopted by parliament that bridges should be high enough to permit a man to stand on top of a box car and pass under the bridge with safety, the Esplanade railway yard, with the tremendous freight traffic both east and west, is not one of such cases. If bridges were decided upon, they would therefore have to have a clearance of 22 feet 6 inches; but the railways showed a clearance of from 18 feet 6 inches to 20 feet on the bridge plans they submitted. Their idea in suggesting low bridges was, of course, to prevent the bridges extending too far north and south. But, even with a clearance of 18 feet 6 inches, they had to show grades of about four per cent on the ramps to keep the bridges from crossing Front Street on the north and extending some distance out in the bay, on the south. In addition to the objection to the bridges on the ground of inability to have proper clearance or head room, the grades on the ramps would be too steep. It was clearly established in evidence before us, that for satisfactory teaming the approaches to the bridges should not have a grade exceeding three per cent. As already indicated, such a grade could not be arranged.

I am, therefore, of the opinion, that as grade separation for the streets east of John street cannot best be brought about by carrying the highways over the railways that the other method, that of carrying the railways over the highways by a viaduct, which to my mind will prove neither excessively expensive or inconvenient, should be adopted. I do not, however, concur in the city's suggestion that the commercial sidings and team loading tracks should be elevated. These might well be left on the street level within certain bounds to be used by moving cars or locomotives only between specified hours of the night. If the city's idea of elevated switches, team loading tracks and roadway for vehicles were carried out, very great damage would be done to prominent commercial establishments and considerable inconvenience and loss of business would be experienced by a number of industrial concerns; and all for no purpose which could not be obtained in another way at practically no expense.

SESSIONAL PAPER No. 20c

If four running tracks were elevated on a viaduct of a width of about fifty-three feet there would still be ample room on each side to take care of the commercial sidings and the team delivery tracks if the adjacent city property were utilized for the purpose of a right of way which should, of course, be maintained for teaming on Esplanade street and south of the viaduct for ingress and egress to all property on the water front. But, as the chief evils to be cured are the grade crossings at Yonge and Bay streets which are subject to be used by large numbers of people at all hours of the night and day, particularly during the summer months, I would prohibit the existence of any tracks across either of these streets at grade, and therefore, all commercial tracks leading from the east would have to stop east of the east side of Yonge street. With regard to the limited use which might be made of these tracks I would suggest, subject to further argument which might be addressed to the Board on this point, that cars or locomotives be not permitted to be moved on them except during the hours between 7 p.m. and 6 a.m., with the exception in the case of cars of fruit or perishable merchandise which might be spotted on such tracks during the day, if special precautions were taken to prevent accidents to persons using the street openings through the viaduct.

In addition to Yonge and Bay streets, I think York street, which could be produced to the water front at grade through a subway under the running tracks and the elevated station tracks, ought to be absolutely free from all grade crossings, as it would be much used not only by a large number of pedestrians but also by heavy teams from the Canadian Pacific Railway freight yard. I would, therefore, stop all tracks at grade from the west at the west side of York street. The John street bridge will have to be raised to give 22 feet 6 inches clear over the viaduct tracks and bridges over all tracks with the same clearance built at Spadina avenue and Bathurst street. The highway crossings on the Grand Trunk from Bathurst street to the Humber river are to be dealt with at a meeting of the Board in January next, but as all parties are agreed that the proper solution for the elimination of grade crossings on this line as far as the Sunnyside crossing is the depression of the tracks from Bathurst street west, that matter need not interfere with the final determination of the question at present under consideration.

Having decided upon a viaduct, it follows of course that the new station must be elevated to the same grade as the viaduct. The location and details of the station are, I understand, generally satisfactory, but the best method for ingress and egress for vehicular traffic to and from the station could not be settled until the elevation of the tracks was determined.

The street openings in the viaduct should have fourteen feet clear head room and be of the full width of the street. The details of the plan and the general layout of the ground should be left to the railways to suggest when they submit plans for the approval of the Board.

I do not think the Board should now determine at what precise point the eastern end of the viaduct should be. It is sufficient, I think, for the Board to inform the railways at this juncture that Cherry street must be crossed overhead with a clearance of 14 feet.

I say nothing at the moment as to the disposition of the Eastern avenue and Queen street crossings east of the Don, as the Grand Trunk Railway have filed plans with the Board showing a line from the Don to Port Union following the Lake Shore which would eliminate the Scarborough Heights grade. If this plan is gone on with and the new line constructed, the line over Eastern avenue and Queen street would doubtless be abandoned.

The railway does not now run on Mill street, but if the construction of a viaduct would require the use of Mill street for railway purposes it should be so used, provided a right of way for vehicles was preserved on this highway.

1 GEORGE V., A. 1911

I think the railways should be ordered to submit to the Board, within say sixty days from the date of the order, plans of a viaduct and bridges along the water front as far west as Bathurst street on the lines indicated. Copies of the plans should, of course, be sent to the city, and then the Board should hold a sitting in Toronto, if necessary, when the details of the plans might be discussed, and if the Board is satisfied with them they could be finally approved and the railways ordered to commence construction.

Perhaps the most difficult point to determine in all this question is, what is the fair and reasonable proportion of the cost of this work which should be contributed by the city of Toronto. We have had evidence of what has been done in other cities, but it has been of little assistance to us, because circumstances differ so much in different cities. My own view is that, as the proposed viaduct is going to prove such a great benefit to Toronto, the city's contribution towards it should be substantial. We must also bear in mind that the railways were permitted, if not induced by the city, to come into Toronto on the Esplanade level and have spent very large sums of money in supplying terminals for Toronto. The railways, will, of course, receive some benefits from a viaduct, such as being permitted to enter and leave the city at a much higher rate of speed than at present and be relieved of the constant danger of accidents at grade crossings, but these advantages will not be commensurate with the cost of elevating their tracks. I, therefore, think that Toronto should contribute one-third to the cost of a four-track viaduct, including the cost of tracks, ties and ballast, and one-third of the cost of the substructure necessary to elevate all tracks at the proposed new station.

It does not appear to me that the land damages outside of those which may be suffered by the railways, will be very great. If there are any damages I think they should be settled by the city and the railways contribute two-thirds of the amount. With regard to damages suffered by the railways, I think they should be entirely paid by themselves. This will merely amount to an adjustment between the railways of each one's interests and losses in connection with the carrying out of the whole station and viaduct scheme. If the railways cannot adjust their difficulties between themselves, the Board will do it for them as best it can at a later date.

The city will have to permit the laying of tracks or the construction of parts of the viaduct on city streets. I would not allow the city any compensation in such cases.

With regard to the bridges at John, Spadina and Bathurst streets, the city should pay one-third of their cost and be responsible for the maintenance of the sidewalks and roadway on them.

The entire cost of maintenance of the viaduct should be borne by the railways, but the city should maintain the roadway and sidewalks at street openings. Before an order is issued carrying out the Board's decision in this matter, draft copies of such order should be sent to all parties interested and they should be given an opportunity to speak to it. Owing to the fact that the parties were so far apart in their respective submissions to the Board and as we were not favoured with argument at our recent sittings there may be some matters of detail in the proposed order which might be changed or some points covered which may have been omitted.

Mr. Commissioner Mills concurred in the judgment of the Assistant Chief Commissioner.

Judgment Chief Commissioner Mabey, December 30, 1908—This matter comes up upon the application of the railway companies for approval of plans for a new Union Station at Toronto. This, of course, involves what the elevation of the station shall be, as well as that of the railway tracks that enter it. The railway plans provide for rail level some four feet above the present elevation of the tracks; the station plans provide for a subway for passengers to pass under certain lines to reach the southerly tracks, and as part of the contemplated work the railway companies

SESSIONAL PAPER No. 20c

produce bridge plans and propose carrying Bay and Yonge streets over the tracks to the water front, and suggest that, as the traffic demands it, the streets east of Yonge should be dealt with in the same manner. It is admitted by the representatives of the railways that the time has arrived when grade separation at Bay and Yonge streets must be provided for. They do not admit the necessity for this at the present time, east of Yonge street. The one broad question for determination as this matter now stands is whether this separation of grade shall be accomplished by the city streets being carried over the lines of railway tracks, or whether the latter shall be carried over the streets; and owing to the physical formation of the city water front, either proposition presents the gravest engineering and financial difficulties.

The Railway Act provides that every bridge under which a railway passes shall be so constructed as to afford an open and clear headway of at least seven feet between the top of the highest freight car used on the railway and the lowest beams of the bridge which are over the space occupied by the passing car, and except by leave of this Board, as to bridges constructed since February 1, 1904, the space between the rail level and such lowest beams shall in no case be less than 22 feet 6 inches. This, of course, is to provide head room for those whose duties require them to be on the tops of freight cars.

The railways propose a bridge at Bay Street with only about 19 feet clearance, with 4.90 per cent grade at the north end and 4.50 per cent grade at the south end. At Yonge Street 19 feet clearance and grades of 3.75 per cent and 4.50 per cent, respectively. At Church Street, 20 feet clearance and grades of 3.50 and 4.90; Jarvis, 19 feet 6 inches clearance and grades of 3.25 and 4.50; Sherbourne, 18 feet 6 inches clearance and grades of 2.90 and 4.20; and Berkley, 19 feet clearance and grades of 3.70 and 4.50.

Bay Street would necessarily be a point that a large amount of traffic would pass over. These plans, even with this bridge having $3\frac{1}{2}$ feet less clearance than called for by the statute, has nearly a 5 per cent grade going south and $4\frac{1}{2}$ per cent grade going north.

It does not seem to be possible to adopt the bridge system and obtain grades over the bridges that would be practicable, unless this Board takes the responsibility of permitting structures of less head room than the law provides for.

It was said the rule requiring men to go on the tops of freight cars in the Toronto yards could be abolished; different rules for different terminals would only lead to confusion. The Board's Accident Inspectors are being continually called upon to investigate accidents caused by lack of head room under bridges, and lack of lateral space along the sides of engines and trains. Our officials have been steadily endeavouring to eliminate these sources of danger, and it is entirely out of the question that they should sanction the erection of overhead bridges from York Street, east, of a character different from that which the law calls for. There are now too many of these structures in various parts of the country, and, instead of sanctioning more, it is the plain duty of the Board to endeavour to get rid of those that now exist.

The grade over the bridges is of paramount importance to the future of Toronto. Nothing can prevent the development of harbour traffic, and in years to come a haulage over long bridges on 5 per cent grades would impose a tax upon traffic arriving and departing by the water route that should not be permitted. Only a few years ago it was thought by all concerned that in the construction of York Street bridge much had been accomplished; to-day about the only question that the railways and the city agree upon is that this bridge must be pulled down. I am free to confess that when I embarked upon this inquiry, I thought the erection of bridges the proper solution of the problem, but the more it is thought out, keeping steadily in view the permanent welfare of a large and rapidly developing city, I am driven to the belief that, if bridges are erected this year, ten years hence would see them all torn down.

1 GEORGE V., A. 1911

Now, if these terminals are to continue on the water front and the streets cannot conveniently be carried over the railway tracks, it is apparent that the latter must be carried over the streets, if grade separation is to be accomplished. Two plans were submitted showing how this could be done, one upon behalf of the city, and one by the Board of Trade. These plans came in for much criticism by the engineers called on behalf of the railways, and by whose evidence I was much impressed; but the true situation is that neither of these plans were submitted with the idea that they were complete in all details, and it is now contended that very many matters must be considered and be provided for that did not enter into the calculation of those propounding these two plans; indeed it could not have been expected that the Board would order a work of this character to be undertaken by the railways upon either of these plans. I do not consider that any plans are before us, other than for the purposes of illustration, and all that we can now decide is as to the manner that this separation of grade is to be accomplished, and we hold that it cannot satisfactorily be done by overhead bridges. I have adverted to the financial aspect of this matter; the time has not yet arrived to say whether the cost of carrying the railway tracks over the streets is prohibitive, or if not how the cost is to be apportioned. This must depend upon the plan that is finally decided to be the best for all concerned, and must, of course, have regard to the reasonable operation of trains and the handling of traffic. How the railways would prefer that their tracks should be carried over the streets, the Board does not know. So far they have been contending that the policy of carrying the streets over the tracks should continue. I do not hesitate to say that when it is known that the tracks must go over the streets, the railways can prepare plans of a work that will improve upon those now before us as to convenience in the movement of traffic, and still retain the essential features contended for by those opposed to bridges.

Upon the evidence now before us, I am of the opinion that it is impossible to deal intelligently with the financial side of this question or to fairly divide the expense of the work. The cost of constructing a given number of steel bridges can be estimated with reasonable accuracy, but when their erection involves damages to adjacent lands, filling in the water front, rearranging or extending the slips and wharfs where large industries exist and carry on their business, building a new street far out in the waters of the bay, it is out of the question to estimate what compensation courts or arbitrators would grant to those whose lands or business were injured. Again, the cost of construction of retaining walls and filling for a viaduct, with the necessary steel work, can be arrived at with reasonable accuracy, but the consequential damages arising, or that might arise, to adjacent properties, by reason of depriving industries of spurs, if that were necessary, possibly doing away with team tracks, narrowing the esplanade, and other claims for damages that doubtless would be made, cannot now be foretold. About the only matter that is perfectly clear is that either mode of grade separation will prove enormously expensive.

The railway companies should be required to file with the Board, within two months, and at the same time furnish copies to the city, plans, profiles, and estimates for the work necessary to separate the grade of the railway from the streets, from York to Cherry streets, inclusive, except such as may have been closed. These plans must make provision that no surface tracks of any kind shall cross York, Bay, Yonge, or Church streets, and provision must be made for a fourteen foot headway at all the streets at present street level, station plans to be amended to suit the changed elevation of the tracks. I say nothing at present as to the elevation of industrials, spurs, or yards, as these are matters that should primarily be left to those who are responsible for the operation of the railways, and the handling of traffic at reasonable rates; a full consideration of these matters can be had when the plans are developed. Nothing upon the subject has so far been said, but should it be thought desirable by the railway interests to deal with the whole situation through the medium of a terminal company, then the latter may file plans instead of, or for, the railways.

SESSIONAL PAPER No. 20c

The situation at the east of York street only is now being dealt with, that west of York and from Bathurst to west of the Humber, is to be spoken to at Ottawa, on January 12.

My brother commissioners are of the opinion that the matter should be finally disposed of now, and the cost apportioned, so the order will issue in accordance with the views of the majority.

On June 9, 1909, the following order was issued:—

Upon hearing the evidence, and of counsel for the city, the railway companies, the Toronto Board of Trade, and a number of land owners in the said city—

It is ordered and directed:—

1. That the railway companies, within two years from the date of this order, construct a four-track viaduct from a point west of John street to a point at or near Berkeley street, with three tracks on either side of such viaduct east of Church street, at the present grade of the Esplanade, with all necessary cross-overs, and as shown on a plan filed by the Grand Trunk except where changes as hereinafter set forth are necessary, and railway company on April 27, 1909, except that Bay and Yonge streets shall each have a total width of eighty (80) feet between abutments under the viaduct, and that from the point of junction of the Canadian Pacific Railway Company and the Grand Trunk elevated tracks at or near Berkeley street to Scott street, the centre line of the viaduct shall be located on the southerly boundary of the esplanade, except at the curve in the tracks in the vicinity of West Market street.

2. That the Canadian Pacific Railway Company elevate two tracks from the point at or near Berkeley street where the said tracks will connect with the tracks on the viaduct referred to in paragraph 1, to Queen street, providing a clear headway of fourteen (14) feet over the following streets, Parliament, Trinity and Cherry, and a clear headway of ten (10) feet over Vine and Front streets; and that the railway companies construct a bridge to carry the highway at Eastern avenue over the railway tracks with a clear headway of 22 feet 6 inches over the base of the rail; the openings at Front and Vine streets to be each thirty (30) feet between abutments and at Parliament, Trinity and Cherry streets to be each a width of sixty-six (66) feet between abutments.

3. That the Grand Trunk Railway Company, within two years from the date of this order, elevate two tracks from the point at or near Berkeley Street where the said tracks will connect with the tracks on the said viaduct, to Logan Avenue, providing a clear headway of fourteen (14) feet over the following streets: Parliament, Cherry, Eastern Avenue, and Queen Street, and ten (10) feet over Trinity Street.

4. That the railway companies, within two years from the date of this order, construct bridges to carry the highways at John Street and Spadina Avenue over the tracks on the said viaduct or the extension of the said tracks westerly, with a clear headway over the base of the rail of twenty-two (22) feet six (6) inches.

5. That the Canadian Pacific Company be permitted to construct and maintain two tracks at grade, one on either side of its elevated tracks, that on the north side commencing at or near Queen street, and crossing the intervening streets between Queen and Parliament Streets, and that on the south side commencing at or near the Don Esplanade, crossing intervening streets and passing under the Grand Trunk Railway Company's elevated tracks referred to in paragraph 3, between Parliament and Berkeley Streets, with a clear headway of seventeen (17) feet and an opening of tracks to be seventeen (17) feet, measured at right angles to the track.

6. That the Grand Trunk Railway Company be permitted to construct and maintain a track, at grade, at or near Berkeley Street, under the tracks of the Canadian Pacific Railway Company, referred to in paragraph 2, with a clear headway over the base of the rail of seventeen (17) feet. The width of the opening under the said tracks to be seventeen (17) feet, measured at right angles to the track.

1 GEORGE V., A. 1911

7. That concurrently with the completion of the works ordered in paragraphs 1, 2 and 3, and as soon as the railway companies can operate their trains thereon, the railway companies shall alter and arrange their yards and sidings so that no tracks on ground level shall cross Bay Street, Yonge Street, or Church Street, in the said city.

8. That after the completion of the works ordered in paragraphs 1, 2 and 3, and as soon as the railway companies can run their trains thereon, no locomotive or car be moved on tracks at ground level between Church Street and Parliament Street during the months of May, June, July, August, and September, except between the hours of 10 p.m. and 6 a.m., provided however, that cars containing fruit or other perishable merchandise may be moved across streets within the said limits at any time when a flagman on foot precedes the train (engine, car or cars) to warn persons on such streets that a train is approaching.

9. That the city shall, within one year from the date of this order, lay out, complete and dedicate a new street south of the viaduct, from the easterly limit of Church Street produced to the westerly limit of Berkeley Street produced, which shall have a width of at least forty-seven and one-half ($47\frac{1}{2}$) feet, and acquire the lands necessary therefor, and pass all necessary by-laws for that purpose, and shall grade the said street; the share of the cost of such work as between the railway companies to be reserved for further consideration, along with the questions covered by paragraph 14 hereof.

10. That the said street shall be paved by the city pursuant to its powers under the Municipal Act; the Canadian Pacific Railway Company to pay one-half the cost of paving.

11. That no amount be paid to the city as damages or otherwise for any city property which may be taken, used, or injuriously affected by the railway companies in the elevation of their tracks or the re-arrangement of their terminals, as shown on detail plans to be hereafter submitted for the approval of an engineer of the Board, or for lands taken for or injuriously affected by the street to be laid out to the south of the viaduct, or for any incidental damages arising in any manner whatsoever; nor shall the city be liable to make compensation to the railway companies in respect of any such matters.

12. That the city pay to the railway companies as hereinafter mentioned, one-third of the cost (1) of the said viaduct, the elevation of the Canadian Pacific Company's coach yards and the Grand Trunk Railway Company's Don sorting yards, and the elevation of tracks required by paragraphs 2 and 3, excepting rails and track laying; (2) of the erection of bridges at Eastern Avenue, John Street, and Spadina Avenue; (3) of the substructure for the elevation of necessary tracks and platforms consequent upon the increased elevation at the proposed new Union Station; such payments to be made forthwith from time to time as the work proceeds, upon the presentation of progress and final estimates of the work done during the preceding months, to be given by the engineer or engineers of the railway companies appointed for that purpose; at the conclusion of the said work, the said account, if desired by any of the parties, shall be taken and adjusted by the Chief Engineer of the Board, who may require from the city and the railway companies all evidence required to his satisfaction and decide the amount disbursed and contributed by each.

13. That all damages for land taken or injuriously affected (other than those of the city and the railway companies) recoverable by reason of anything done pursuant to the terms of the order be adjusted or settled by the city; and that forthwith after settlement, two-thirds of the amount required to make such settlement be paid to the city by the railway companies.

14. That York street bridge shall be removed and the expense of such removal shall be borne by the railway companies and the city in the proportion of one-third by the city and the remainder by the railway companies, and the disposition of the

SESSIONAL PAPER No. 20c

said bridge be arranged between the city and the railway companies; and that, in case they fail to agree the points at issue be referred to and settled by the Board.

15. That the proportions in which the cost of constructing the works directed by the 1st, 4th, 7th, and 9th paragraphs of this order, shall be borne as between the railway companies, and the proportion in which the damages payable by the railway companies under the 11th paragraph of this order shall be determined by agreement between the said companies, and in the event of their being unable to agree, shall be determined by the Board.

16. That the question whether any compensation be paid by either of the railway companies to the other of them in respect of lands or other property of either company taken or injuriously affected or injury done by one to the other by the construction of any of the works or structures directed or permitted by or under this order, be reserved to be disposed of by the Board.

17. That leave be specially reserved to the Canadian Pacific Railway Company to apply for leave for an entrance into its yards from the west, upon filing proper plans and notifying all interested parties.

18. That leave be also reserved to the Canadian Pacific Railway Company to apply for the right to use in common with the Grand Trunk Railway Company, the Union Station tracks from the point of connection at Spadina avenue, last mentioned, to the junction with its tracks at Tecumseh street, for the purposes of operating its freight traffic and for an independent connection of at least two tracks with cross-over between the points 'A' and 'B,' shown on the said plan of the Grand Trunk Railway Company, upon terms to be settled by the Board.

19. That detail plans and specifications of all the work ordered or authorized herein shall be first submitted by the railway companies to and approved by the Chief Engineer of the Board.

20. That leave be reserved to all the parties to apply to the Board from time to time for any change or variation of the plans or details that may be rendered reasonable or necessary as the work progresses.

21. That the work shall be subject to the approval of the Chief Engineer of the Board, and shall be performed to his satisfaction.

22. That as to all matters not herein provided for, leave be reserved to all parties to apply to the Board as the same arise for adjustment or otherwise.

23. That the applications made by the railway companies respectively for compensation or for a reservation of any rights to compensation, damages, or otherwise, as against the city of Toronto by reason of derogation from any pre-existing contract, grant, lease, or conveyance, made by the city to either of the railway companies in respect of the application by the said city, for or by reason of any of the provisions of the order or anything done in pursuance thereof, or that this order should be made without prejudice to any of such rights, are refused upon the grounds that the same have all been considered in adjusting the contributions by the parties towards the cost of the said works.

(Signed.) J. P. MABEE,
Chief Commissioner,

Board of Railway Commissioners for Canada.

The Canadian Pacific Railway Company appealed from the above order to the Supreme Court of Canada. The appeal as to all questions of jurisdiction was taken by leave of Mr. Justice Duff, and as to all questions of law by leave of the Board under its order dated July 6, 1909.

The order of the Board was confirmed by the Supreme Court, and the appeal was dismissed with costs.

The respondent railway company has given notice of application for leave to appeal to the Judicial Committee of the Privy Council from the judgment of the Supreme Court.

1 GEORGE V., A. 1911

County of Carleton v. City of Ottawa.

The Board by its order directed the county of Carleton to contribute to the cost of a viaduct or overhead roadway where four railways cross on Wellington street in the city of Ottawa.

The county of Carleton originally joined with the city of Ottawa in applying to the Board for an order for this work. Subsequently the village of Hintonburgh, in which the proposed viaduct would be situated, was incorporated with the city, and the work, which had been within a few feet of the county was then distant from it nearly a mile. The county therefore withdrew from the joint application and it was proceeded with by the city alone. The Board, however, held that the county was still a 'party interested' and in granting the application ordered it to pay a portion of the cost. The county applied to the Supreme Court of Canada questioning the jurisdiction of the Board to make such an order. The following judgments show the disposition of the appeal:—

The Chief Justice and Duff and Anglin, J.J., concurred in the judgment of Mr. Justice Davies.

April 5, 1909, DAVIES, J.—The question on which leave to appeal was given in this case, from an order of the Board of Railway Commissioners directing the municipality of the county of Carleton to pay a proportion of the cost of certain protective works ordered at the crossing of the Richmond road and the Canada Atlantic and other railways, was limited to the jurisdiction of the Board to make the order it did as against the municipality of the county of Carleton.

The ground upon which the jurisdiction was challenged was that, while the crossing in question was, at the time the application was made to the Board for such protective works, within a few hundred feet of the municipal boundary, subsequently, before the case came on for hearing and at the time the order was made, the area within which the crossing existed had been legally withdrawn for about a mile from the municipal boundary and the intervening territory brought within the city of Ottawa, and, so, the proposed protective works were neither within the municipal bounds of the county nor immediately adjoining them.

It was contended on behalf of the municipality that it could not be held to be an 'interested party' within the meaning of the Railway Act with respect to protective works ordered by the Board at highway crossings which were not within the boundaries of the municipality, and the more so in a case such as the one before us where, it was contended, the highway was not vested in the municipality, but in a toll company.

All questions as to sections 186 and 187 of the Railway Act of 1903 being *intra vires* of the Parliament of Canada have been set at rest by the decision of this court in the case of *The City of Toronto v. The Grand Trunk Railway Company*, 37 S.C.R. 232, and that of *Toronto Corporation v. The Canadian Pacific Railway Company* (1908) A.C. 54, decided on appeal from the Court of Appeal for Ontario by the Judicial Committee of the Privy Council.

The powers of the Board of Railway Commissioners to order municipalities to pay a proportion of the cost of protective works ordered to be built at highway and railway crossings on railways within the jurisdiction of the Dominion Parliament so far as these crossings were within the municipal bounds or immediately adjoining them, were, by these two cases finally settled against the municipality.

In the latter case, decided by the Judicial Committee of the Privy Council, two of the crossings there in question were over a railway, the southern boundary of which was the northern boundary of the city of Toronto and so outside of but immediately adjoining the city boundaries.

The question raised in the case before us was whether a municipality was liable if the crossings where the works were ordered was beyond its bounds and not immediately adjoining them.

SESSIONAL PAPER No. 20c

I am unable to discern any substantial reason for limiting the jurisdiction of the Board of Railway Commissioners in the manner suggested.

If that Board has jurisdiction to order a municipality to pay a proportion of the cost of any work ordered by it to be done at a railway and highway crossing in cases where that work is beyond the bounds of the municipality, even though adjoining it, I fail to see why its jurisdiction should cease if the crossing happened not to adjoin, but to be a short distance beyond the municipal bounds.

The municipality was not an 'interested party' within the provisions of the Railway Act and so liable to pay a share of the cost of the work at a railway and highway crossing simply because the crossing was within its bounds or 'immediately adjoining' them, or because the municipality owned the highway crossing the railway or being crossed by it, but because the works ordered were, in the words of the statute, for the 'protection, safety and convenience of the public' and such 'as, under the circumstances, appeared to the Board best adapted to remove or diminish the danger or obstruction arising or likely to arise therefrom,' and because the Board found the inhabitants of the municipality especially interested in these protective works.

What Parliament was conferring on the Board were powers for the 'protection, safety and convenience of the public' at the crossings, alike that portion of the public being carried by the railway and that portion using the highway.

The decision of the Board as to whether a municipality was or was not a party interested was made by the statute binding and conclusive. It is a question of fact to be determined upon all the circumstances of each case. The circumstance of a crossing where protective works were ordered being within or without the municipality might be or might not be, under all the special circumstances of the case, most material to the decision of the fact whether or not the municipality was an interested party, but it was not, in itself conclusive. Such a crossing might be within the boundaries of the municipality and yet its inhabitants be very slightly interested in the protective works ordered, or it might be just beyond the precincts of the municipality and yet so situated that a large number of the inhabitants of the municipality were vitally interested in the protective works ordered. In each case the question of fact and the amount of the municipality's contribution were to be determined by the Board.

The municipality represented its inhabitants; the works to be ordered were works for the 'protection, safety and convenience' of such inhabitants as part of the public; and the degree and extent to which the municipality was to share the expense of the protective works determined on as necessary was to be decided by the Board. In all cases it was necessarily a question of fact to be decided in the light of all the circumstances and not necessarily dependent upon the arbitrary fact of the protective works being within or immediately adjoining the municipality.

Though not within the express terms of the decision of the Judicial Committee in the case above cited, of *Toronto Corporation v. The Canadian Pacific Railway Company* (1908) A.C. 54, this case is within the reasoning on which that judgment and also the judgment of this court in the *City of Toronto v. The Grand Trunk Railway Company*, 37 S.C.R. 232, above cited, were founded.

The following extract from the judgment of the Judicial Committee, as delivered by Lord Collins, shows, in part, the reasoning by which their Lordships reached the conclusions they did:—

'In the present case it seems quite clear to their Lordships that if, to use the language above quoted, 'the field were clear,' the sections impugned do no more than provide reasonable means for safeguarding, in the common interest, the public and the railway which is committed to the exclusive jurisdiction of the legislature which enacted them, and were, therefore, *intra vires*. If the precautions ordered are reasonably necessary, it is obvious that they must be paid for and, in view of their Lordships, there is nothing *ultra vires* in the ancillary power conferred by the sec-

1 GEORGE V., A. 1911

tions on the committee to make an equitable adjustment of the expenses among the persons interested. This legislation is clearly passed from a point of view more natural in a young and growing community interested in developing the resources of a vast territory as yet not fully settled than it could possibly be in the narrow and thickly populated area of such a country as England. To such a community it might well seem reasonable that those who derived special advantage from the proximity of a railway might bear a special share of the expenses of safeguarding it. Both the substantive and the ancillary provisions are alike reasonable and *intra vires* of the Dominion legislature, and, on the principles above cited, must prevail, even if there is legislation *intra vires* of the provincial legislature dealing with the same subject matter and in some sense inconsistent.'

I think, therefore, the limitations upon the jurisdiction of the Board of Railway Commissioners sought to be put by the county of Carleton in this case are not maintainable and that the appeal must be dismissed with costs.

IDINGTON, J.—I think this appeal should be dismissed with costs.

The power of the commission as to directing a municipal corporation to aid in protecting a railway company has been, ever since *The City of Toronto v. The Grand Trunk Railway Company*, 37 S.C.R. 232, was decided here, dependent entirely upon the finding of the commission as to whether or not any of the inhabitants of such municipality were interested.

The majority of the court in that case held, as beyond doubt, that, if the inhabitants were interested, the corporation must be held so.

I had supposed, until then, that though the inhabitants had been incorporated, they and the corporation were not, in law, convertible terms, and that the latter could only represent the former so far as its legislative creator had determined it might.

I had also supposed that 'municipal institutions' in a province, having as a subject matter been assigned by the British North America Act, 1867, to the legislature of the province, exclusively to make laws in relation to matters coming within such a subject so assigned, it was not competent for the Dominion Parliament either to add to such power as the creating legislature had seen fit to confer or, above all, to use these institutions for the purpose of levying taxes upon the inhabitants so incorporated when given no such power, merely to subserve the execution of any of the powers conferred on the Dominion.

I had supposed any such corporation, in respect of its property, whether of roads or aught else, might, as any other property owner, become, of necessity, subject in relation to such property to the will of parliament lawfully empowering or directing railway construction and suggested a line might well be drawn for exercising the jurisdiction now in question to cover this property relation, as within the manifest interest of the corporation.

The opinions given by the other members of the court left us no room for doubt that the line should not be so drawn or any line save where parliament saw fit to draw it.

The British North America Act, 1867, and the Railway Act so interpreted left the matter wholly to the commissioners to find and say what municipal corporations were 'interested' within such meaning as was thus assigned in the latter Act.

This case was upheld by the Judicial Committee of the Privy Council, and later, *The Toronto Corporation v. The Canadian Pacific Railway Company* (1908), A.C. 54, not only carried quite logically (if I may be permitted to say so) the doctrine further than the former case; but also lays down so wide a principle of action to be applied that it is hard to see what appellants can have hoped to gain by thus flying in the face of judicial authority when armed only with nothing new but only such arguments as had proved of no weight in the highest courts of law entitled to pass upon the matter.

Appeal dismissed with costs.

SESSIONAL PAPER No. 20c

The Canadian Northern Railway Company and Don Valley Lands.

The Canadian Northern Ontario Railway Company applied to the Board, under section 178 of the Railway Act, for authority to take certain additional lands shown on the plan accompanying the application for the purpose of permanently diverting portions of highways particularly set forth in the application. The application was heard at the sitting of the Board held in the city of Toronto, April 22, 1908.

The facts are as set forth in the judgment of the Chief Commissioner.

Judgment of Chief Commissioner Mabey, dated April 28, 1908, concurred in by Mr. Commissioner Mills.

My brother Commissioners heard this case before I became a member of the Board, and were of the opinion, so far as the facts were concerned, that the application should be granted. Some of the landowners, however, raised the objection that the proceeding did not fall within the provisions of section 178 of the Act.

This provides that should the company 'require . . . more ample space than it possesses or may take under the last preceding section . . . for the diversion of a highway, or for the substitution of one highway for another . . . it may apply to the Board for authority to take the same for such purposes without the consent of the owner.'

Subsection 4 provides that 'the Board may, in its discretion, and upon such terms and conditions as the Board deems expedient, authorize in writing the taking, for the said purposes, of the whole or any portion of the lands applied for.' This section is much wider than section 139 of the Railway Act, 1903, which did not contain the words relating to the diversion of a highway, or the substitution of one highway for another, nor was it clear that under subsection 2 of section 186 a highway could be expropriated and closed up.

The necessity for the railway taking the particular lands in question for the purposes set forth in the application has been sworn to by the engineer, as required by subsection 3 of section 178. At the hearing, oral evidence was given to the same effect, and the Board's engineer has reported that, in his opinion, such necessity exists.

Objection was taken by Mr. Osler for some of the persons interested that the railway was endeavouring to expropriate these lands that it might convey them to the city of Toronto in substitution for certain lands the city was selling to the railway company; but a perusal of the agreement entered into between the railway company and the city shows that the lands the company is asking authority to take are to be used as a public highway in lieu of certain streets running through the lands covered by the agreement for sale entered into between the city and the railway company; and my brother commissioners have found as a fact that the lands covered by this application are required that the highway or highways in question may be diverted. Objection was also taken that the railway company intended locating a railway yard upon the lands hitherto acquired by it and those it was purchasing from the city; but I do not think, upon this application, the Board has any power to prevent the location of a yard at the point in question, the only matter for determination being whether the lands applied for are necessary for the diversion of these highways. If they are, the section covers the application. Some of the landowners admitted they could not successfully oppose the application. It is true that subsection 4 makes it discretionary with the Board. This discretion has been exercised by my brother Commissioners in favour of the applicant.

The railway company is not, however, necessarily entitled to locate the diverted or substituted highways as laid out upon the plan filed. The landowners are entitled to a voice in the new location, and if by reason of a change in such location the company is unable to obtain a conveyance of the lands covered by its agreement with the city, it necessarily follows that this application fails.

1 GEORGE V., A. 1911

In the meantime, the Board's engineer will, after conference with the interested parties, direct where these diverted or substituted highways shall run. Then, if the city is still willing to carry out its agreement, the company may have authority to take the lands necessary for the new highway; but full compensation must be made to all landowners whose property is taken, not only for the value of the lands so taken, but also damages (if any) to the rest of the lands which may be injuriously affected by the location of a railway yard at the point in question, and generally by reason of the exercise of the powers conferred upon the company. If in the result the railway company takes lands from the owners affected for the purposes sought, the arbitrators may, in fixing compensation or in determining the costs of the arbitration, have regard to the landowners' costs of this application, and in the event of the railway company not acquiring the lands applied for, or any other lands from the owners affected by this application, then it should pay the landowners' cost of this application; in the latter event, to be fixed by the Secretary of the Board.

Re Township of Sydenham v. Canadian Pacific Railway Company.

The residents of the township of Sydenham and the town of Owen Sound complained to the Board of the dangerous condition of the highway where it crosses the line of the Canadian Pacific Railway at Murray's Cut near Owen Sound, and applied for an order directing the construction of a bridge over the railway at the point in question.

The facts are sufficiently stated in the judgment of Mr. Commissioner Mills, April 3, 1909.

Some time since, the late Chief Commissioner and myself reluctantly issued an order allowing the Canadian Pacific to run a track alongside of a lumber yard a short distance away from the main line of the company, although strong objection was made by the farmers in the locality, inasmuch as after the laying of the said track, or siding, those coming in by the road passing the said lumber yard would have to drive for some distance between this siding and the main line.

We had to admit that the road at that point would be made dangerous for vehicular traffic; but the lumber yard was laid out in such a way that we could not very well refuse the request for a track in the place applied for.

Now in view of the road along side of the lumber yard having been made more dangerous for traffic than it formerly was, there is, I think, good reason for the application to have the other entrance to the city from this direction, by Murray's Cut (13 or 14 feet deep at a sharp curve in the line), made safe, which, I think can be done only by the construction of a bridge, and I am inclined to support the conclusion of Mr. Mountain in his report attached to the file, that it would be advisable to construct a wooden bridge such as he proposes. I think the said bridge might be constructed at the cost of the railway company, and the approaches which are somewhat long and more or less expensive to fill, be made and maintained by the township, or the township and the said city of Owen Sound conjointly.

As I have not time at present to go more fully into the details, I leave the matter to be considered by the Chief Commissioner.

Judgment, Chief Commissioner Mabey, May 5, 1909, concurred in by Assistant Chief Commissioner Scott.

Of course, I am not aware what considerations entered into the granting of authority to lay the additional track at the lumber yard in question, but I do not think that action should necessarily lead to an order for the construction of the bridge in question. There is little traffic at the crossing where the bridge would be located, and the extent to which the traffic would be diverted if this bridge were con-

SESSIONAL PAPER No. 20c

structed, thereby avoiding the alleged increased danger along the shorter route, is problematical.

Experience shows that the large majority of those using public highways will not take a longer route to avoid occasional dangers upon a shorter one—and unless the construction of this bridge would have the result of taking a substantial majority of the public away from the alleged dangers in the vicinity of the lumber yard not much good would result from the expenditure.

The policy of eliminating level crossings must be to deal first with those where the greatest danger exists, such danger arising from the traffic then passing over the crossing. Of course this remark does not apply where a street crossing was being entirely closed and the traffic diverted to another, where the grade was being eliminated, but I am unable to join in an order for the construction of a bridge like the present, in hope only that the public may use it, and at the same time leaving a dangerous situation like the one said to exist at the lumber yard. Railway companies are being called upon to make large capital outlays as well as increased annual expenditure for maintenance, to protect their grade crossings, and I am of opinion that if any permanent and substantial benefit is to be derived from these expenditures they should be confined to cases that are clear, and the public should not be left to choose between the safe new crossing and the old dangerous one, more particularly where the latter offers the shorter route. Therefore, if the street at the lumber yard cannot be closed, I am of the opinion the erection of the bridge should not be ordered.

By order, dated May 5, 1909, the application was dismissed with leave to the applicants to apply to the Board for the installation of a bell at the said crossing if they so desired.

London Fence Company v. The Canadian Northern Railway Company.

The London Fence Company, Limited, complained to the Board that the Canadian Northern Railway Company refused to provide and maintain a proper crossing where its tracks cross Broadway street, Portage la Prairie, for pedestrian and vehicular traffic, and applied for relief so that they might have free access to their factory.

The facts are set forth in the judgment of the Chief Commissioner, who with Mr. Commissioner McLean heard the complaint at the sittings of the Board in Winnipeg, February 13, 1909.

Judgment Chief Commissioner Mabey, February 13, 1909—

We both think in this case it is clearly shown there was an arrangement made between the late manager of the Fence Company and the representative of the railway, whereby the thirty foot right-of-way, the closed portion of Broadway on the north side of the Canadian Northern tracks, out to Main street, as shown on this plan, should be provided. It seems that the agreement was acted upon by the railway company. Some obstructions were removed, and since that time the Fence Company have been using the right-of-way as arranged out to Main street.

Complaint is made that the arrangement was not submitted to the board of directors by the then manager, and ratified by them, but that is not anything that the railway company had any control over, it was a matter entirely within the authority of the then manager to enter into this arrangement. It was entered into, I have no doubt, in good faith. The railway company carried out their portion of it, and we have got to see as far as we are able, that agreements are lived up to, not only by railway companies, but also by private individuals if they enter into them. That this agreement afterwards proved unsatisfactory to the new management is no reason why a further burden should be imposed upon the railway company.

We think that the agreement should be carried out. This roadway may be declared to be a right-of-way granted by the railway company to the fence company; if

1 GEORGE V., A. 1911

the city of Portage la Prairie will not accept it as a highway, accept dedication of it, and agree to maintain it, then it may continue to be an easement granted by the railway company as a right-of-way to this London Fence factory.

In addition to that, the railway consents, if the city of Portage la Prairie will extend their water main to the north, along the tracks of the railway, so that a hydrant may be located at a more convenient point to the fence company, to pay that expense. That, of course, is not anything we can order, because we cannot order the city of Portage la Prairie to supply water or extend the main; but if the fence company can arrange with the city to extend the main across the street and locate the hydrant so that they may save that one-quarter per cent of insurance, then upon Mr. Clark's undertaking whatever expense the city may be put to in connection with that, will be reimbursed.

Peoples' and Caledon Telephone Cos. v. Grand Trunk and Canadian Pacific Railway Companies.

The applicant telephone companies applied to the Board for an order compelling the respondent railway companies to permit the installation and maintenance in railway stations of telephones.

Judgment, Assistant Chief Commissioner Scott, May 5, 1909—

The Board has heard applications from Peoples' Telephone Company and the Caledon Telephone Company, for an order to compel certain railway companies to permit telephone companies to install their instruments in a number of railway stations. Under section 245 of the Railway Act, the Board may grant such an order, and may impose such terms as it deems just and expedient, but, in determining them, shall not take into consideration any contract giving exclusive or other privileges to any other telephone company by the railway company, with regard to the installation or maintenance in its stations of the instruments of such telephone company.

The only points to be considered then are whether such telephonic connection will be of public benefit, and if so, what terms should be imposed on the telephone company seeking the privilege. It will be a saving of time if the Board lays down certain general principles upon which it will act when such applications come before it.

If the telephone company's instruments are in general use in the district surrounding the station in question, and it appears that the installation of a telephone in the station would be of substantial convenience to the public having business with the railway company, and would not be unduly oppressive or inconvenient to the railway company, then I think the Board should grant the application.

As nearly all telephone companies in Canada are incorporated by provincial laws, and are consequently not under the jurisdiction of the Board, difficulty might be experienced in compelling such a company to comply with the terms and conditions the Board might desire to impose, unless the company was bound to do so by contract.

I, therefore, suggest that where the Board is of the opinion that the application of a telephone company for an order to compel a railway company to permit the installation of a telephone in its station should be granted, that before any order is issued the telephone company be asked to execute an agreement in the following or like form, in which I have set out fair and reasonable conditions upon which such order should be granted:

This agreement, made the _____ day of _____, in the year of Our Lord one thousand nine hundred and _____, by and between _____, hereinafter called the 'Railway Company' of the First Part, and _____, hereinafter called the 'Telephone Company' of the Second Part.

Whereas, the Telephone Company is desirous of placing a telephone instrument in the station of the Railway Company at _____, in the Province of _____

SESSIONAL PAPER No. 20c

And whereas the Railway Company is willing to permit the said telephone instrument to be placed in its said station upon the terms and conditions hereinafter stated.

Witnesseth, that in consideration of the premises, it is hereby agreed by and between the parties hereto, as follows:—

1. Upon the terms and conditions hereinafter stated, the railway company will permit the telephone company to install a telephone instrument in its said station, the telephone company to pay the railway company a rental of \$1 per annum for the privilege, to be paid on the first day of January in each year, during the continuance of this agreement.

2. The telephone instrument shall be placed and maintained at the said station without damage to the railway company's property, and entirely at the risk and expense of the telephone company, free from any rental or other charge to the railway company, and the telephone company will not seek to hold the railway company responsible for any damage to said instrument, no matter how such damage may occur.

3. The telephone company may erect and maintain such poles and wires on and across the lands of the railway company as may be necessary for the installation and operation of the said telephone instrument, provided that such poles shall be placed, and such wires strung, to the satisfaction, and under the supervision of a duly authorized official of the railway company, and at such places only as he shall designate.

4. The said telephone instrument shall be of the most modern and efficient type in use by the telephone company; it shall be a desk or wall instrument, whichever the railway company may desire; it shall be placed in such position in the said station as the railway company may indicate, and shall be connected by private wire with the central of the telephone company.

5. The railway company, its officials, agents and employees, shall have service from, to, and through the said telephone instrument with local and rural subscribers over the telephone lines of the telephone company, without charge therefor.

6. The telephone company may, with the approval of the Board of Railway Commissioners for Canada, remove its telephone instrument from the said station and its poles and wires from the property of the railway company at any time upon giving the railway company 30 days' notice in writing of its intention so to do. All damage done to the property of the railway company in removing the said telephone instrument, poles and wires, shall be repaired by and at the expense of the telephone company.

7. This agreement shall terminate at any time upon the order of the Board of Railway Commissioners for Canada, granted on the application of the railway company, or otherwise, and the telephone company will, at all times, carry out and obey any order of the said Board, with regard to the installation, maintenance, operation or removal of the said telephone instruments, poles or wires, and hereby submits itself, in so far as this contract is concerned, to the jurisdiction of the said Board.

In witness whereof the parties hereto have executed these presents.

Upon such an agreement being signed for each of the stations in which the telephone companies before us desire to install instruments, I think the order asked for should be issued.

My suggestions in this matter apply only to cases where one or two telephone companies desire to put their instruments in a railway station; if a third or more companies desire the privilege, a special application should be made to the Board, otherwise a railway company might be put to much inconvenience.

The Chief Commissioner and Commissioner McLean concurred.

1 GEORGE V., A. 1911

Re Orillia and Georgian Bay and Seaboard, Canadian Northern Ontario, and Grand Trunk Railway Companies.

The Georgian Bay and Seaboard Railway Company applied for an order, under section 176 of the Railway Act, for authority to take possession of, use and occupy certain lands belonging to the Grand Trunk Railway Company near Orillia, in the province of Ontario, required for the purposes of its railway. .

Judgment Chief Commissioner Mabee, December 3, 1909—

Had the location of the Georgian Bay and Seaboard Railway and the Canadian Northern Ontario Railway in the town of Orillia been left to the unfettered control of the Board, I should have been in favour of requiring joint use of the present Grand Trunk Railway tracks and terminals, with such enlargements and changes as might be necessary, with a joint union station for the three roads, with a new swing bridge over the Narrows at or near the site of the present Grand Trunk Railway bridge. The Georgian Bay and Seaboard Railway Company and the Canadian Northern Ontario Railway Company have, however, obtained the approval of the Governor in Council of a new structure over the Narrows, and this Board has no power to deviate from this location. This prevents the Board from requiring these railways to use the Grand Trunk Railway tracks for an entrance into the town, and so the new entrance must be fixed from the point at which the new bridge is to be located over the Narrows. This necessitates a level crossing over the tracks of the Grand Trunk Railway at Atherly and the establishment of at least eleven level crossings over streets in the town of Orillia, all, or the most of which might have been avoided by requiring joint use to be made of the Grand Trunk entrance.

The new union station proposed for the joint use of the Georgian Bay and Seaboard Railway and the Canadian Northern Ontario Railway is only two blocks from the present station, and is so located that all traffic to and from the town must pass over the tracks of the Grand Trunk. The new line is along the waterfront, and the citizens to reach the lake or the town parks will be compelled to cross an additional line of railway. This new line is located through one of the parks, and one of the resolutions passed by the town council provides as follows:—

that the railway will use for their first single track only so much of the sixty-six feet right-of-way across the park as may be necessary therefor, and will lay out the balance, not immediately required for these tracks, to conform with the park property adjoining, and will, *if the consent of the Railway Commission can be obtained by the town, and the town will assume the responsibility therefor, leave their right-of-way through the park unfenced*, so that it will not necessarily lessen the area available for park purposes.

If I understand this arrangement, it is that the property shall be level park right up to the road-bed, and the provision would seem to indicate that the park being somewhat limited in area, it was the desire of the town council that children playing there should have unobstructed access to the roadbed of the railway for use as their play or recreation grounds.

This road is being constructed as a grain route from Georgian bay, and some idea of the probable traffic may be obtained from the statement made at one of the hearings that the Grand Trunk had carried this year through Orillia twenty million bushels of grain. What will it be a few years hence? What a splendid acquisition all this will be to the Orillia park.

We have had several deputations from the town council asking approval of all this. It may be taken for granted that had this Board not been bound by the location of the new bridge, no part of this arrangement would have been approved or sanctioned.

Some parts of the matter the Board can yet control; one is the fencing of the right-of-way through the park and, notwithstanding the apparent desire of the cor-

SESSIONAL PAPER No. 20c

poration to assume responsibility for lives that may be lost there for the want of fencing, the right-of-way must be fenced, and not with the ordinary railway fence either, must be of a character that the children cannot climb over.

Another matter is the protection of all these additional level crossings that the council is unnecessarily imposing upon the inhabitants, as well as increasing the necessity of protection at existing Grand Trunk crossings by reason of traffic to the new terminals. The delegates were told that when these matters come up for consideration and distribution of cost, the history of what gave rise to them would not be forgotten by the Board. Nor will it be.

The location of the new Union station, as shown on the plan filed by the Georgian Bay & Seaboard Railway Company, as well as the location of its line of railway to the west of the station may be approved. That from the road allowance between concessions six and seven easterly as shown in red upon the plan, may be approved; except that the Chief Engineer of the Board will locate the crossing at Atherly at such point as will work the least inconvenience to the Grand Trunk Railway and at the same time afford a proper crossing for the applicant; and he will also define the mode of protection. Of course all this, including establishment, maintenance, and operation of the protective device shall be at the expense of the applicant railway companies.

The section between the above road allowance and the Union Station presents different considerations. The applicant railway companies ask leave to take one of the tracks of the Grand Trunk throughout most of this course making proper compensation, or building another track for the latter company to the south. These tracks are from one to four hundred feet apart, and the council strongly supported the case of the applicants for the appropriation of the northerly Grand Trunk track. I am of opinion that this is in part fair, but the applicants should not take Grand Trunk property farther west than at or near the ice-house, and if they cannot agree, this exact location will be settled by the Engineer, my present idea would be at about the point where the profiles show the railway lines to be at grade.

The applicants must straighten out the northerly Grand Trunk line; that is, construct a new line in all respects equal to the present along a course to the south of the portion appropriated by them, and all this must be to the satisfaction of the Chief Engineer. Plans must be filed showing a new location to the west from the point of departure from Grand Trunk property to the new Union Station.

Much complaint was made that a location like the above would leave the Grand Trunk in control of new industries, located upon the town property situate between the two lines of that company. This need not at all follow. There is no difficulty in providing access to any such industries from the lines of the applicants, and when any such industries require spurs, if the Grand Trunk obstructs and application is made to the Board, they will be properly taken care of.

The applicant companies must compensate the Grand Trunk Railway Company for any of its land taken that may not be included in mere track removal, and if they cannot agree, then such compensation shall be fixed by the Board, or by whom it may appoint.

If the foregoing does not dispose of all the applications before the Board upon these matters, they may be spoken to again.

Township of Caldwell v. The Canadian Pacific Railway Company.

The township of Caldwell applied for a highway crossing over the line of the Canadian Pacific Railway Company on the town line between the townships of Caldwell and Springer.

The company consented, but submitted that it should be at the cost of the township as to construction, maintenance and operation. This the township declined and asked for the disposition of the question of cost.

1 GEORGE V., A. 1911

From the correspondence it appeared that the townships of Caldwell and Springer were surveyed in the year 1880, the former by R. H. Coleman, O.L.S., and the latter by J. K. McLean, O.L.S. The railway was constructed at the point in question in 1883, and the plans of the survey do not show any reservation of road allowance, as such, along or between the boundaries of those townships.

Judgment, Chief Commissioner Mabee, December 8, 1909.

It has been well settled that municipalities asking for leave to open new streets or highways over railway lines are required to bear the expense connected therewith, but the railway companies have not been allowed, nor so far as I know have they ever asked for compensation for their lands used for such roads or streets.

The Minister of Crown Lands for Ontario informs the Board that the surveys of the townships of Springer and Caldwell show no road allowances along either of the boundaries, or the concessions or side lines, but that, under this system of survey, when patents issue, a reservation of five per cent of the total area is made for roads, with the right in the Crown to lay roads out where necessary or expedient.

The railway line then was constructed through these townships with the knowledge of this practice of the Department of Crown Lands. Of course, the location of roads had not been defined at the time of construction, but that there must at some future time be highways somewhere was known, and that the five per cent was being, or would be withheld by the Crown from settlers for such purpose was also known; so if the plan had shown a highway between these townships and the company, in that event, would have had to bear the expense of opening the road, why should the same principle not apply where the company knows the Crown will reserve a portion of the land for highways, to be located at proper and convenient points in the future? It is no greater burden upon the railway company in one case than in the other; in the one the company knows where it may be at some future time called upon to bear the expense of opening a highway; in the other it knows of the five per cent reservation in each Crown deed, but the exact point of location of highway is not known. Along the tier of lots on the boundary line between these townships the five per cent is kept out for highways, it was known this would be done, so it is no hardship to require the railway company to bear the expense of opening a highway along this boundary where the same crosses the railway right-of-way. This should be made to comply with the standard of highway crossings, and if the work cannot be done this winter, it should at least be completed by June 1, 1910.

Mr. Commissioner McLean concurred.

The order of the Board, dated December 13, 1909, directed the railway company, at its own expense, to carry the highway over the tracks of the company in accordance with the general regulations of the Board affecting highway crossings, the work to be completed by June 1, 1910, and provided that the township should bear the expense of maintaining the crossing.

The Essex Terminal and Windsor, Essex and Lake Shore Railways.

Under the order of the Board of March 26, 1909, referred to in the judgment, the cost of maintaining and operating the crossing of the Canadian Pacific Railway Company's tracks and the tracks of the Windsor, Essex and Lake Shore Rapid Railway Company by the tracks of the Essex Terminal Railway Company, and of the protective appliances to be installed at said crossing, was directed to be divided equally between the Windsor, Essex and Lake Shore Rapid Railway Company and the Essex Terminal Railway Company.

Counsel for the Essex Terminal Railway Company applied to the Board for a reconsideration of the apportionment of the cost of such installation and maintenance on the ground that the Essex Terminal Railway Company were lawfully senior to the Windsor, Essex and Lake Shore Rapid Railway Company.

SESSIONAL PAPER No. 20c

Judgment, Chief Commissioner Mabee, December 10, 1909:—

The order issued in this matter on March 26 was intended to put into effect what I understood the Board before I was a member of it, had previously directed. I had not gone through the proceedings and had no knowledge of the merits. I have, however, subsequently looked into the case, and it is self-evident that the order in question is wrong and works injustice to the Windsor and Essex Railway Company.

Priority has been established in favour of the Windsor and Essex over the Essex Terminal, so all expense of the crossing by the latter over the line of the former must be borne by Essex Terminal; nor should the location of this crossing, or the crossing or connection of the Essex Terminal with the Canadian Pacific line of railway in any way affect or add to the burden of the crossing of the Windsor and Essex over the Canadian Pacific. The order is entirely wrong in dividing the cost of these three crossings between the two electric railways. The cost of installing separate protective devices would leave the Windsor and Essex with much less financial burden than the installation of one device for all crossings; and if the Board requires only one to be installed the cost should be equitably distributed having regard to the requirements of each company. The interlocker to be used is to have some forty-three levers; the cost of installation and maintenance will be divided between the two electric companies in the proportion that the number of levers used by each company bears to the total number of levers in the tower. In other words, if there are forty-three, and twelve are necessitated by reason of the crossing of the Windsor and Essex over the Canadian Pacific, then the Windsor and Essex should bear 12-43 of the cost of erection, installation and maintenance.

The tower is to be operated by two men appointed by the Canadian Pacific Railway Company but paid one-third by the Windsor and Essex Railway and two-thirds by the Essex Terminal Railway.

Order, in accordance with the judgment, dated December 15, 1909, and rescinding order dated March 26, 1908, issued.

The City of Regina v. The Canadian Pacific Railway Company.

The council of the city of Regina applied to the Board, under sections 237 and 238 of the Railway Act, for an order directing the Canadian Pacific Railway to provide and construct a suitable subway where the company's railway intersects Albert street in the said city.

Judgment, Assistant Chief Commissioner Scott, December 11, 1909:—

This application was first heard by the Board at a sitting at Regina, held on February 11, 1909, the Chief Commissioner and Mr. Commissioner McLean being present. In a memorandum of May 11, 1909, the Chief Commissioner stated that upon Mr. Mountain's recommendation the plans for the subway may be approved; and he further stated that the question of the proportion of the cost of the structure to be borne by the parties interested should be settled if possible amicably between the city and the railway company. A copy of the Chief Commissioner's memorandum, in which Mr. McLean agreed, was sent to all parties by the secretary, in a letter dated May 19, 1909. A conference was held between Mr. Peters, assistant to the second vice-president of the Canadian Pacific Railway Company and the municipal authorities, on July 19, but they were unable to come to an agreement.

Plans of the proposed subway were approved by Mr. Mountain the Chief Engineer of the Board, on September 3, 1909. The only question then remaining to be determined was, how the cost of the structure was to be divided between the railway company and the city.

At a sitting of the Board consisting of Mr. Commissioner McLean and myself held at Regina, on November 8, 1909, we heard argument on behalf of the city and the railway company on the question of the distribution of the cost of the subway.

1 GEORGE V., A. 1911

Counsel for each party subsequently put in a further argument in writing with reference to the question of seniority of the highway over the railway at Albert street crossing. I am of opinion from the evidence and argument, that the highway at Albert street was a legal highway before the railway company had the legal right to cross the highway with its tracks.

Therefore, at this point the railway is the junior, but I do not think it is a very important factor, as the necessity for the separation of grades at Albert street arose years after both the street and the railway were constructed. It is the increased traffic on the highway as much as on the railway that make this grade crossing a dangerous one.

From the correspondence between the parties which ensued after the conference of July, it appears that the city is willing to look after the paving of the street and the construction of new sidewalks. That, of course, is work which it would have to do in any event when it became necessary, whether a subway was constructed or not. In addition to this, as the benefit is going to be a substantial one from the municipal point of view, I think that it should bear the entire cost of the excavation work necessary and pay one-half of the land damages caused by the construction of the subway. The city of course should look after the drainage.

An order should, therefore, go that the railway company build all abutments, retaining walls, pedestals and superstructures shown on the plans. Upon the city ascertaining the amount of the land damages, the railway company will pay the city one-half of the same. The city to do all excavating required, and pay one-half of the land damages. The work should be completed by the first of August, 1910, and any engineering disputes which may arise between the parties in carrying out the work should be settled by the Chief Engineer of the Board.

Mr. Commissioner McLean concurred. Order dated December 13, 1909, issued accordingly.

Crossing Public Highway in the Township of Scarboro by the Canadian Northern Ontario Railway Company.

The Canadian Northern Ontario Railway Company applied for authority to construct its line across the public highway in the township of Scarboro, county of York and province of Ontario, known as Pharmacy avenue.

At the hearing of the application, Counsel for the municipality urged that a level crossing should not be approved at this point, but that the railway company should be directed to construct a subway carrying the highway under the railway. The elevation of the track over the present grade of the highway at this point would be about 7 feet 6 inches, and it will therefore require an excavation of 8 feet 6 inches for the construction of the subway.

The evidence was that at present the traffic on the highway is not heavy, and that there are few residents on it adjacent to the railway.

Judgment, Assistant Chief Commissioner Scott, February 8, 1910.

While the difference between the grade of the railway and the highway at this point lends itself to the construction of a subway, nevertheless, I think that bearing in mind the objectionable grade on the highway and the fact that there is not a heavy traffic upon it, we should not order a subway to be constructed by the railway.

There are so many other points where separation of grades is more necessary than at this highway, I think we should not unduly tax the financial resources of the company in this case.

In my opinion, an order should go approving of the level crossing as indicated on the plan submitted by the railway. Mr. Commissioner Mills concurred.

SESSIONAL PAPER No. 20c

Application of the City of Vancouver for leave to construct a wooden foot-bridge over the tracks of the Canadian Pacific Railway at the north end of Carrall street, in the said city.

Judgment, Assistant Chief Commissioner Scott, November 25, 1909:—

Until recently the public used to cross over the railway tracks north of Carrall street to get to the wharves and steamers in that vicinity along the water front of Burrard inlet. This was, undoubtedly, a dangerous practice and the railway company put a fence along the south side of its property to stop it.

The nearest point to Carrall street where the railway can now be crossed is Columbia avenue, about six or seven hundred feet east.

The city now wants, at its own expense, to be permitted to construct an overhead bridge for foot passengers only, over the tracks where the public used to cross at grade, at the end of Carrall street. As there is a great deal of travel to and from the water front, I think it would be most convenient to the public if this foot-bridge were built.

The railway company submits that the Board has no jurisdiction to grant the application. I do not agree with it.

The Board has ample jurisdiction under section 237 of the Railway Act, as it appears in section 4 of chapter 32 of the statutes of 1909, to authorize a municipality to construct a highway across a railway, and we are given very wide powers to impose terms and conditions. This will be a highway across the railway.

I think the application should be granted and an order go approving of the plans, if they are satisfactory to an engineer of the Board.

Mr. Commissioner McLean concurred.

Application of Walter Harland Smith, under section 29, for an order to amend orders of the Board No. 7706 and No. 8055, re Grand Trunk Railway Company's Branch Lines crossing and west of the seventh line in the town of Oakville, Ont. Held at Toronto, March 22, 1910.

JUDGMENT.

Hon. Mr. MABEE.—Dealing first with this Davis and Doty matter; on September 9, an application came to the Board from the Grand Trunk Railway for leave to construct this branch line or siding extending from a point on the company's railway west of the seventh line road, thence along the seventh line road to the lumber yard and premises of Messrs. Davis & Doty.

The original plan filed has endorsed upon it the approval of the municipal authorities of Oakville as evidencing the consent of the municipality to the use, for the purposes of this industrial siding, of the seventh line according to the plan.

The application was passed upon by one of the Board's engineers on September 11, and inasmuch as the town had signified its consent to the construction of the spur, the engineer recommended that there need be no advertisement of the application.

The branch line section number 222 provides, where an application is received together with the plan, profile and book of reference, and so on, that four weeks' public notice of its intention to apply to the Board under this section shall be given in some newspaper published in each county or district through which the branch line is to pass, or if there be no newspaper, then in the *Canada Gazette*.

I suppose there is a newspaper in the town of Oakville. If public notice had been given of the intention to apply for this order, the probabilities are that a good deal of subsequent trouble and heart-burning would have been saved. But, acting upon the recommendation, inasmuch as the town had consented, an order was made

1 GEORGE V., A. 1911

on September 13 permitting the construction of the spur, and also dispensing with notice of publication.

It is in our view perfectly clear that notice of the publication of this application should not have been dispensed with. It is a mistake to suppose that there were no landowners interested in this application save Messrs. Davis & Doty, and the municipal council of Oakville, if that may be considered for the purposes of this application a land-owner. The owners of the land on both sides of this highway, along which it was proposed to construct this spur, were parties interested. If a man buys land abutting on a public street, he is surely very greatly interested in the construction of a siding or a spur of any description along that street in front of his property. So that the land-owners along both sides of the highway had a right to be heard, and should have had an opportunity of being heard before this order was made. In addition to that, I think it very bad practice for the Board to adopt to grant orders of this kind, even if the municipalities are inclined to turn over the public streets for location thereupon of these industrial spurs, without giving the inhabitants living in the community an opportunity, through public advertisement of finding out what is contemplated.

It is no doubt a hardship, and we fully appreciate the difficulty in dealing with a matter of this sort after the work is on the ground, after it has been done, and after money has been expended. It does not assist much to say that only ten or a dozen cars have been moved. I do not know how far to the north these industries extend beyond Messrs. Davies & Doty. It may be that other industrial establishments, and many of them, will grow up and this spur be extended, and perhaps in five or ten years hence, instead of only a few cars being moved per month along this highway, there may be many cars every day, and in the end it may be that the public highway at this point may be turned over very largely for the purpose of moving traffic to and from industrial establishments as they develop and grow.

We think, notwithstanding the money that has been spent, and notwithstanding the hardship, there is only one course for us to take in the public interest, and that is to rescind the order that has been made.

Many of the remarks that have already been made have application to the Shields and Hillmer situation. The consent to cross the highway at that point, we think, was given without full consideration of what it all meant from the public point of view. There are a large number of tracks, it is a busy section, one of the busiest sections on the line of the Grand Trunk system. There are many fast trains passing Oakville, and passing this seventh line highway that do not stop there. The putting down of another crossing and some distance away makes it only worse. We think it was a serious matter from a public point of view. The order was also made without being advertised and without the public having an opportunity of intervening.

We think, notwithstanding the work that has been done and the money that has been expended there, that order must also be rescinded. It may be that the siding can be extended along to the west, and doubtless will be. There is vacant land suitable for manufacturing sites, and as these towns grow into cities, and industries spring up in a short time, the whole of this street will be given over to the movement of traffic across it. I fancy that there must be locations at Oakville where these industries could have been established, without in one instance requiring the whole of the highway for a long distance being occupied by a railway track, and the same highway crossed at another dangerous spot.

If people will locate where they are handicapped by those difficulties in connection with getting their sidings in without considering the matter from a public point of view, they have only themselves to blame.

We have no hesitation whatever in rescinding both these orders.

SESSIONAL PAPER No. 20c

Central Saskatchewan Boards of Trade and the Grand Trunk Pacific.

The facts are fully set forth in the judgment of the Chief Commissioner.
Judgment of Chief Commissioner Mabee, March 16, 1910.

The above Boards of Trade appeal to this Board to compel the Grand Trunk Pacific Railway Company to institute and operate 'an adequate daily first-class passenger service,' on the line of the Grand Trunk Pacific between Winnipeg and Edmonton.

The powers of the Board to require railway companies to furnish proper train accommodation, after lines have been opened for traffic, are undoubted, but the difficulty in this case is that the Grand Trunk Pacific between Winnipeg and Edmonton has never been opened for traffic.

The matter is one of importance to the public, and it is proper that the situation should be understood by all concerned.

Under its charter and contract the Grand Trunk Pacific has until December 31, 1911, to complete its works, and under the provisions of 4 and 5 Edward VII., cap. 98 it is still in the construction period. The active control of this Board, apart from matters relating to construction begins when the company applies under Section 261 for the opening of the road for the carriage of traffic. The Board cannot open a road for traffic except upon the application of the company. The following is Section 261 in full:—

261. No railway or any portion thereof, shall be opened for the carriage of traffic, other than for the purposes of the construction of the railway by the company, until leave therefor has been obtained from the Board, as hereinafter provided.

2. When the company is desirous of so opening its railway, or any portion thereof, it shall make an application to the Board for authority therefor, supported by affidavit of its president, secretary, engineer or one of its directors, to the satisfaction of the Board, stating that the railway, or portion thereof, desired to be opened, is in his opinion sufficiently completed for the safe carriage of traffic, and ready for inspection.

3. Before granting such application, the Board shall direct an inspecting engineer to examine the railway or portion thereof proposed to be opened.

4. If the inspecting engineer reports to the Board, after making such examination, that in his opinion the opening of the railway or portion thereof so proposed to be opened for the carriage of traffic, will be reasonably free from danger to the public using the same, the Board may make an order granting such application, in whole or in part, and may name the time therein for the opening of the railway or such portion thereof, and thereupon the railway, or such portion thereof as is authorized by the Board, may be opened for traffic in accordance with such order.

5. If such inspecting engineer, after the inspection of the railway, or any portion thereof, shall report to the Board that, in his opinion, the opening of the same would be attended with danger to the public using the same, by reason of the incompleteness of the works or permanent way, or the insufficiency of construction or equipment of such railway, or portion thereof, he shall state in his report the grounds for such opinion, and the company shall be entitled to notice thereof, and shall be served with a copy of such report and grounds, and the Board may refuse such application in whole or in part, or may direct a further or other inspection and report to be made.

6. If thereafter, upon such further or other inspection, or upon a new application under this section, the inspecting engineer reports that such railway, or portion thereof, may be opened without danger to the public, the Board may make an order granting such application in whole or in part, and may name

1 GEORGE V., A. 1911

the time therein for the opening of the railway, or such portion thereof, and thereupon the railway, or such portion thereof as is authorized by the Board, may be opened for traffic in accordance with such order.

7. The Board, upon being satisfied that public convenience will be served thereby, may, after obtaining a report of an inspecting engineer, allow the company to carry freight traffic over any portion of the railway not opened for the carriage of traffic in accordance with the preceding provisions of this section. 3 E. VII., c. 58, s. 207.

Certain orders have been made by the Board—one granting the company leave to carry settlers and their effects upon construction trains, and then for leave to run tri-weekly mixed trains, both of which were probably beyond the powers of the Board to make; but the company was anxious to grant the public such accommodation as it could, and many requests came from business bodies that some service should be furnished. We yielded to those demands, and these orders, for what they were worth, which was probably nothing, were made. The public has I presume received some accommodation from the service inaugurated under these orders, and are now clamouring for improvement in it. The Board can do nothing. The above section says that no railway shall be opened for the carriage of traffic except by leave of the Board, and that when a company is desirous of so opening its railway, *or any portion thereof*, it shall make an application for such authority. This Board cannot open a road for traffic against the desires of the company, or without its making an application for an order for such opening. The Grand Trunk Pacific has never made such an application, and takes the position that its road is still in the construction period and not yet in shape to be opened. It is said it has no terminals in either Winnipeg or Edmonton to handle first-class passenger traffic properly, but this is immaterial, the main fact being no application made for opening, **no order can be made.** A further difficulty exists in the fact that the Special Act provides that 'period of construction,' shall mean the period of time which shall elapse until the western division shall be completed under the provisions of the Transcontinental Railway Act, or of any Act extending the time for completion, and that the government shall fix the *date of such completion* by Order in Council. Section 3 of the Railway Act provides that where the provisions of the Special Act conflict with those of the Railway Act, the provisions of the Special Act shall override the Railway Act; and so it may be that the Board can in no event open this road for traffic until the date of completion is fixed by Order in Council.

A hand bill was sent down showing this company had been carrying Christmas excursionists in connection with eastern lines. This was, of course, an abuse of the orders that the Board granted, but it does not assist in solving the problem at issue, or in conferring authority to grant the applicants' request.

Commissioners Mills and McLean concurred.

Queen Street Crossing at Palmerston by the Grand Trunk Railway.

Judgment, Assistant Chief Commissioner Scott, February 4, 1910.

When the Board considered the question of protection at the level crossing of Queen Street, Palmerston, over the tracks of the Grand Trunk Railway Company, at the recent sitting in Toronto, on January 27, in the presence of a representative of the railway company and the municipality, it was conceded on all sides that this crossing was an extremely dangerous one, and required better protection than it now has. At present there are twelve tracks of the Grand Trunk Railway crossing Queen Street, and the only protection afforded is that of a flagman who has been stationed there by the Grand Trunk at its own expense, on an order of the Board passed in 1905. There is a school on the northeast side of the railway yard, which is attended by a large number of pupils from southwest of the yard who have to cross the rail-

SESSIONAL PAPER No. 20c

way tracks at Queen Street four times a day. To the west of Queen Street, both William and James Streets are open for vehicular traffic; on the east there is a crossing open for vehicular traffic some distance east of the railway company's yard.

At the hearing, the representative of the town of Palmerston stated that the municipality was willing to close Queen Street over the tracks of the railway company for vehicular traffic, on condition that the railway company would build a subway or overhead bridge for the passage under or over its tracks for pedestrian travel. This, I think, is a fair proposition. The closing of a level crossing at Queen Street will be of very great advantage to the railway company. The crossing runs practically through the middle of the yard, and the railway company can carry on its undertaking far better if it is unencumbered by a level crossing, with the danger and responsibility which it entails.

I therefore, am of opinion, that an order should go directing the Grand Trunk to construct a pedestrian subway at Queen Street, on condition that the municipality close the street within the limits of the railway company's property for vehicular traffic by by-law. The railway company should submit plans of this proposed undertaking within thirty days, for the approval of an engineer of the Board. I do not now say whether the subway should be under the existing tracks only, or should be from one side of the railway company's property to the other. The railway company is the best judge of what it requires; but it should be clearly understood that in the event of the northern entrance to the subway terminating south of a point on Queen Street forty-three feet south of Prospect Street, that no tracks will be permitted to cross between that point and the entrance to the subway on the level. The subway should be lighted by the municipality, as they have to light their own streets. I cannot see that there should be any land damages caused by the construction of the subway, but if there are any they should be borne by the railway company, the municipality on the other hand being liable for its own acts in connection with the closing of the street for vehicular traffic. This subway should be completed by the first of July next, and from the date of its completion the railway company should be relieved from its obligation, under the order of 1905, from the maintenance of a flagman at Queen Street crossing.

I would give to the railway company twenty (20) per cent of the cost of the subway out of the Railway Grade Crossing Fund.

Concurred in by Commissioner Mills.

Re Bridge over the Canal, Railway Tracks and Company's Rights-of-Way on the Cockshutt Road, Market Street, in the city of Brantford.

The city of Brantford applied to the Board for the approval of plans for the construction of a new Market Street bridge and the apportionment of cost thereof the city agreeing to pay about one-half.

The Chief Engineer of the Board reported on the present wooden structure and his recommendation was that for the protection of the travelling public, especially the street-car traffic, a new and stronger bridge was required.

The judgment of the Board delivered by Mr. Commissioner Mills, February 23, 1910, was that the city should be authorized to construct the proposed new steel and concrete bridge, according to plans examined and approved by the Engineer of the Board.

Dealing with the question of apportionment of the cost the judgment is—

Regarding the apportionment of the cost of the proposed bridge, several interests and obligations have to be considered.

The City.—The city no doubt has a large interest in the construction of the said bridge; and when every interest is fairly considered, it may be necessary to require of it a somewhat larger contribution than that mentioned at the hearing.

1 GEORGE V., A. 1911

The Grand Valley Railway Company.—The Chief Engineer of the Board, after careful calculation and consideration, has furnished me with a memorandum stating that, in his opinion, a bridge which can safely be used for an ordinary two-track line of street cars will cost from sixteen to twenty per cent, say usually about eighteen per cent, more than it would cost to make it sufficiently strong and safe for vehicular traffic, which is about fifteen per cent of the total cost of such a bridge; and in this particular case it would, I think, be fair to add at least 1½ per cent for the strengthening of the arch over the canal, which must be done not merely beneath the car track, but throughout the whole arch. Hence it appears that the Grand Valley Railway Company (the Street Railway Company of the city) should make a considerable contribution towards the construction of the bridge in question.

The Western Counties Electric Company.—The highway, or street, crossed by the canal having been in existence before the canal was originally constructed, the Western Counties Electric Company, as the present owner of the canal, would, according to the usual practice of the Board, have to pay the entire cost of the span of the bridge over the canal, or something more than fifty per cent of the total cost of the bridge; but in view of all the other interests in this case, I think a much smaller percentage should be required of the said electric company.

The Three Railway Companies under the Bridge.—Three railway companies have rights-of-way under the proposed bridge:—

The Toronto, Niagara and Western Railway Company, for a through line.

The Brantford and Hamilton Electric Railway Company, to do the switching at the terminus of its main line.

The Grand Trunk Railway Company of Canada, for switching to a flour mill.

The tracks of the Grand Trunk Railway Company were laid years ago; and the other two companies are unwilling to surrender their rights under the proposed bridge. Hence it would appear that the bridge must be constructed so as to provide for all three railway companies; and, as present provision means present expenditure, it seems that the only course open to the Board is to make what it considers an equitable distribution of the cost among all the parties interested, including the three railway companies.

APPORTIONMENT OF COST.

The apportionment of the cost of the proposed bridge shall be as follows:—

	Per cent.
City of Brantford..	51
Grand Valley Railway Company (for one track, 7½ per cent and 1½ per cent)..	9
Western Counties Electric Company (owner of canal).. . . .	24
Toronto, Niagara and Western Railway Company (main line).	6½
Brantford and Hamilton Electric Railway Company (switching at terminus of line)..	6½
Grand Trunk Railway Company (switching for flour mill)...	3
	—
	100

Terms of Payment.—The city to furnish all the other parties interested with copies of a statement showing the actual cost of the said bridge, and the said other parties to pay to the city their respective percentages of the said cost as soon as the bridge is completed and ready for use.

Maintenance.—The cost of the maintenance of the pavement of the bridge to be divided as per agreement between the city and the Grand Valley Railway Company. The cost of maintaining the remaining portions of the bridge is to be apportioned when the occasion arises.

SESSIONAL PAPER No. 20c

N.B.—There should be in the order a clause directing each and every company referred to in the order to see that no man is ever on the top of any car while it is passing under the said bridge.

Order in accordance with judgment issued.

Re Bridge over the Don Improvement at Queen Street, Toronto.

This was an application by the city of Toronto for authority to build a high level bridge over the Don improvement and the tracks of the Canadian Pacific, Grand Trunk and Canadian Northern Ontario Railway Companies at Queen street east in the city of Toronto.

Upon the hearing of the original application in December, 1906, the board, composed of the late Chief Commissioner Killam and Commissioner Mills, decided that the bridge was to be built, but reserved the question of the proportion of cost to be borne and paid by the different parties interested. This question was allowed to stand pending the determination by the board of the viaduct question, which would affect the grade of the tracks at the Queen street crossing.

At its sittings in Toronto, June 3, 1909, counsel for the parties interested decided not to re-argue the question of the apportionment of the cost of the bridge, and asked the board to consider it on the argument addressed to the board in December, 1906.

Judgment, Assistant Chief Commissioner Scott, June 23, 1909.

The only questions for us to determine now are, who shall pay for the construction of the bridge, and to what extent shall each one contribute.

The existing bridge at the point in question carries Queen street, an important highway in the city of Toronto, over the Don river. Queen street was a highway at the point in question long before the railway tracks were laid across it. There is a heavy traffic over the bridge, which was largely increased since the level crossing of the railways over Queen street was established.

The Toronto Street Railway Company was in 1893 permitted to cross the tracks of the Grand Trunk Railway and the Canadian Pacific Railway at Queen street, and has to pay a considerable amount annually for the protection of the crossing. The Street Railway Company's franchise expires August 31, 1921, so that the use of the proposed bridge by that company under its franchise will only be for a comparatively short time. Nevertheless, as a great number of street cars pass over the crossing daily, and as a number of accidents have already happened in spite of the protection appliances in use, separation of grades at this point will be of considerable benefit to the street railway.

By an agreement made on July 23, 1890, a copy of which will be found as schedule A to the Ontario statutes, 54 Victoria, Cap. 82, between the Canadian Pacific Railway Company and the city of Toronto, the company agreed to provide gates and watchmen at the crossing in question, and also agreed to contribute towards the cost of a high level bridge when it should be constructed by the city.

The crossing is of much importance to the Canadian Pacific Railway Company. It is used by its through trains from the east and west, and its line at that point is its only entrance from the east to the Toronto union station terminals. The Canadian Northern Ontario Railway has no other entrance to its new freight terminals and the Union station, except over the Queen street crossing. The use of the crossing by the Grand Trunk Railway is not as great or as important as that of either of the other railways. That company only uses it for freight purposes in connection with its Toronto Belt Line Railway.

It is difficult to decide with absolute fairness what each party should contribute towards the cost of the new bridge, or rather the elevation of the existing bridge and the construction of new approaches, which I understand is the method agreed upon by the engineers, of accomplishing the desired end.

1 GEORGE V., A. 1911

Separation of grades at this point will be of much benefit to the people of Toronto and to the different railway interests using the crossing. All parties should contribute towards the cost of the undertaking, and I am of the opinion, all things considered, that substantial justice will be done if the cost of construction, and land damages, if any, are paid for in the following proportions:—

City of Toronto.. . . .	15 per cent.
Toronto Street Railway.. . . .	15 “ “
Canadian Pacific Railway Company.. . . .	35 “ “
Canadian Northern Ontario Railway Company.. . . .	25 “ “
Grand Trunk Railway Company (belt line).. . . .	10 “ “

As far as the maintenance of the bridge is concerned, unless the circumstances materially change at a later date, I think the city should maintain the roadway entirely at its own expense and pay 70 per cent of other maintenance. The balance to be paid in equal parts by the Canadian Pacific Railway Company, the Canadian Northern Ontario Railway Company and the Grand Trunk Railway Company, *i.e.*, 10 per cent each.

An order should go for the immediate commencement of the construction of the bridge by the city, which should be completed in six months.

The Chief Commissioner concurred.

Order, dated July 3, 1909, in conformity with the judgment issued. Later the Canadian Pacific Railway Company applied for an order extending the provisions of the order of July 3, 1909, so as to provide ‘that upon completion of the bridge required under the said order to be constructed, the said street be closed for pedestrian and vehicular traffic and access to and from the tracks of the railway company be prevented.’ This application, after hearing, was refused.

On September 15, 1909, counsel for the Toronto Street Railway Company applied to the Board for leave to appeal to the Supreme Court from the apportionment of the cost imposed upon that company, which leave was refused.

The Chief Commissioner.—This application is made under subsection 3 of section 56, which provides that an appeal shall lie to the Supreme Court of Canada from the Board upon any question which, in the opinion of the Board, is a question of law, on leave therefor having been first obtained from the Board.

The section also gives the Board a discretion in granting or refusing leave to appeal.

So that under the statute when application is made, if the Board thinks that the question involved is a question of law, the statute rests in the Board authority to say that notwithstanding their opinion as to that, the question is not one of such importance that would warrant leave being granted. That, however, is not the view that we take in connection with this application. Our view is that the question involved and covered by this application is not a question of law, but may—and as to which it is not necessary for us to express any opinion—be a question of jurisdiction.

It seems to me that, quite apart from the terms of the agreement, whether they have been rightly or wrongly construed in connection with the consideration that the Board gave the matter, still, under the clauses of the Railway Act, the Board has jurisdiction to make any order it deems fair and equitable between the parties, notwithstanding the existence of private contracts between them.

If the Board was wrong in the order that has been made, it seems to us that it is because the Railway Act falls short of vesting the authority in the Board to make such an order, and if the judgment is wrong it must be for that reason, and not because of any misconstruction that has been placed upon the agreement between the parties.

So that entertaining that view that it is not a question of law, the Board has no authority whatever to grant leave to appeal to the Supreme Court.

Having that view, we unanimously refuse leave to appeal.

SESSIONAL PAPER No. 20c

The Town of Brampton vs. The Grand Trunk Railway Company of Canada and the Canadian Pacific Railway Company.

The facts are fully set forth in the judgment of Chief Commissioner Mabee, November 11, 1909, concurred in by Mr. Commissioner Mills.

Judgment, Chief Commissioner Mabee:

The municipal council of the town of Brampton apply for an order directing the Grand Trunk Railway Company and the Canadian Pacific Railway Company to provide and construct a suitable 'interchange switch' at the intersection of the lines of the two companies at Brampton.

The case was heard at Toronto at considerable length, and as there seemed to be so much opposition on the part of the companies, I thought it better to obtain fuller information, and cause careful inquiry to be made of the business situation at Brampton that would or might be affected by this connection.

On October 28, Mr. Brown, chief clerk of the traffic department, visited Brampton, and on November 3 reported as follows:—

The largest manufacturing concern is the Brampton Pressed Brick Company, located on a Canadian Pacific Railway siding about one and a half miles from the diamond. This plant turns out each year a million to a million and a half of superior brick, the majority of which is at present shipped to Toronto in successful competition with the Don Valley Brick Company.

It was claimed by Mr. Packham, manager of this concern, that he could only sell brick to parties who were willing to take Canadian Pacific Railway delivery at Toronto, as the Canadian Pacific refuse to absorb the Grand Trunk Railway switching under the competitive clauses of the interswitching order on their business, and that if an interchange track was put in at Brampton he would be able to demand delivery on both companies' sidings at destination. He makes shipments to other Canadian Pacific Railway points, but states that the Grand Trunk Railway offers better markets, especially on the line between Toronto and Sarnia, where his brick is well known. During the past year he was unable to compete on contracts at Georgetown, Stratford, Markham, Acton, &c. The capacity of his plant is two and a half millions per year, and he claims he could run to full capacity, or double his output, if the interchange was given. This firm purchases thirty or forty cars of coal and wood per year, and could often purchase to better advantage on the Grand Trunk Railway.

The Dale estate, florists, have a private siding about one and a quarter miles from the diamond. The manager of this firm was out of town, and I could get no information from the man in charge. I was, however, informed by outside parties that the siding was constructed under an agreement to give the entire business to the Canadian Pacific Railway. The carload business of this firm is all inward and amounted last year to about 150 cars of coal and 50 cars of other freight consisting of bulbs, cement, lumber, &c.

W. Findlay, another florist, makes use of this same siding as it passes through his property. Under an agreement with the Canadian Pacific Railway he is charged \$100 per car for switching. His carload business is all inward, amounting to about thirty cars per year, principally coal. He states he could often purchase his coal to better advantage on Grand Trunk Railway tracks, and in several instances he has been obliged to haul glass, machinery, &c., from the Grand Trunk Railway station at a cost of from \$6 to \$14 per car. He owns considerable property adjacent to the Canadian Pacific Railway line, which he claims is good for factory sites, if access could be had to both roads.

The Brampton Milling Company have a siding on the Canadian Pacific Railway close to the diamond (shown on plan). Mr. Brett, the manager, is very anxious to obtain interchange facilities, although his business, as shown by the Canadian Pacific

1 GEORGE V., A. 1911

Railway books, is not very heavy, amounting to about fourteen cars inward (grain), and about thirty-five cars outwards (products), during the past year. He states, however, that he has not fairly started as he only purchased the business about a year ago. He also claims the Grand Trunk Railway offers much better markets for his output, and that he could greatly increase his business if the interchange was given. He buys barley as agent for the Canada Grain Company, and last year had his storehouse blocked with fifty thousand bushels of barley for which he had difficulty in finding a market on the Canadian Pacific Railway. He claims if he had had connection with the Grand Trunk Railway he could have shipped out his barley and filled his warehouse several times over.

I was unable to locate the owner of the granary building shown on the plan, but was informed by both the Canadian Pacific Railway and Grand Trunk Railway agents that no business of any account is being done there; in any event, as both the Canadian Pacific Railway and Grand Trunk Railway have sidings adjacent to the warehouse an interchange track would not benefit this particular industry.

The Pickering Coal and Wood Company use the Canadian Pacific Railway siding, and their business amounts to about fifty cars of coal and twenty-five cars of wood per year; the wood is principally purchased at Berkley, Markdale, Proton and Orton. If they had the interchange track they might sometimes be able to purchase wood and coal to better advantage on the Grand Trunk Railway.

J. York & Sons' lumber yard is located near the Canadian Pacific Railway siding close to the depot, and this firm handles about twenty-five cars of lumber and shingles per year, buying principally from Owen Sound and Byng inlet. If an interchange were given they might be able to purchase to better advantage on the Grand Trunk.

The Queen City Oil Company have their plant adjacent to the Canadian Pacific Railway siding and supply oil amounting to twelve cars per year for local consumption. This oil is shipped from Sarnia *via* the Canadian Pacific Railway and Péré Marquette. I did not think it necessary to interview them.

The only industry which has a private siding on the Grand Trunk Railway is the Brampton Coal Company, who receive about 150 cars of coal and 20 cars of wood per year, also handling several carloads of shingles. The manager of this firm states the wood supply is better at nearby Canadian Pacific Railway points, and that he is often able to purchase coal at lower prices on Canadian Pacific Railway tracks, but cannot handle on account of no interchange. He also stated he believed that he would be able to handle more shingles and lumber if he could buy on the Canadian Pacific Railway.

The Irving Lumber Company and D. Prattley, a dealer in coal and lime, are located near the Grand Trunk terminals. The managers of both concerns were out of town, but I was informed by the bookkeeper of the Irving Lumber Company that they only purchased about fifteen cars of lumber per year, which was sold locally, and as the business was so small he did not think interchange facilities would help the firm to any great extent.

D. Prattley handles about twenty cars of coal and twenty cars of lime per year; the lime all comes from a local Grand Trunk Railway point (Limehouse).

I also called on Mr. Justin, attorney, who stated that the Board of Trade were very much interested in obtaining for the town an interchange track between the two companies, and believed if they could promise the connections, it would be an inducement for industries to locate there. He also stated that there were many good factory sites, and Brampton was so situated as to be a good distributing point within a short distance of markets.

From the information given by the various shippers, I estimate the interchange would amount to from 150 to 200 cars per annum, and I agree with Mr. Justin that if the town was able to offer connection with both roads, it would prove an attraction to new industries.'

SESSIONAL PAPER No. 20c

On the 9th instant, Mr. Hardwell, Chief Traffic Officer, reports as follows:—

‘It seems to me that the companies themselves furnish the strongest arguments for the connection. In the first place, they have very few joint tariffs, so that if a firm in Brampton located on the tracks of one company, desires to ship or receive traffic to or from points on the line of the other, they have either to team the traffic in Brampton, or pay the two local rates by way of the most convenient outside junction point. For example, if the Brampton Milling Company, who have a siding on the Canadian Pacific Railway, wish to buy grain at Hamburg, on the Grand Trunk in order to avoid teaming from the Grand Trunk at Brampton, they must pay the local rates of the two companies from Hamburg to Inglewood Junction, and thence over the Canadian Pacific Railway, to Brampton, at a total cost of 8 cents per 100 lbs.; whereas, if they had the interchange at Brampton, the straight Grand Trunk rate of 5 cents would apply, plus the consignees’ proportion of $5\frac{1}{2}$ cents— $2\frac{1}{2}$ cents less than the sum of the locals.

Similarly, the Brampton Pressed Brick Company, also on a Canadian Pacific Railway siding, would have to pay $7\frac{1}{2}$ cents per 100 lbs. to ship a carload of brick to Stratford; while, if the interchange were there, the rate, including the switching, would be 6 cents. To quote from Mr. Brown’s report, this firm states that the Grand Trunk offers better markets than the Canadian Pacific Railway, especially along the line between Toronto and Sarnia, where their brick is well known; but that during the past year they were unable to compete for contracts at Acton, Georgetown, Stratford, &c. They claim that they could double their output if the interchange were ordered.

‘In the next place, it appears that, although Brampton is a common point, yet the companies have refused so to regard it in applying the General Interswitching Order, which declares it to be lawful for the contracting carrier to absorb the toll charged for the interswitching of competitive traffic. I can only conceive that their reason for this is that there is no interchange at Brampton, and that they have taken advantage of this fact and considered that the cost of teaming at Brampton offsets the charge made for switching, say, at Toronto. The brick company ship largely to Toronto, where they are able to compete successfully with the Don Valley brick; but they claim to be able to sell only to parties willing to accept Canadian Pacific Railway delivery, probably because the competition with a local firm like that at the Don is so close as to leave no margin of profit after paying the Toronto switching charge. Now if the proposed interchange be established at Brampton, the General Interswitching Order must automatically apply, and as the traffic must necessarily then become strictly competitive, the Grand Trunk would undoubtedly prefer to absorb the Brampton switching charge, and thus secure the haul to Toronto; in other words, the brick company would secure a three cent rate for all deliveries in Toronto, instead of being restricted, as they claim, to Canadian Pacific deliveries at that rate, with the alternative of a three and one-half cent rate to Grand Trunk sidings.’

The first point for consideration upon this information and the facts that were developed at the hearing, is whether the business situation at Brampton justifies ordering this connection, and I am clearly of the opinion that it does. Mr. Brown’s report is based upon a careful investigation, and the number of cars would probably be interchanged seems not to be overestimated. It is the duty of railway companies, within reason, to furnish interchange facilities to shippers, and from careful consideration of the Brampton situation it seems beyond question that the applicants have made out their case.

A plan of the proposed connection was filed by the applicants. I think the better practice is that the railway companies should choose the point and manner of connection, subject, of course, to approval of the Board’s Engineer as to the engineering features—and the Board’s Operating Officer—as to the operating features of the inter-

1 GEORGE V., A. 1911

change track. There may be matters connected with the track proposed by the applicants that have not been fully considered by the railway companies. An order may go requiring the railway companies to agree, if possible, upon the location and building of the connection, and if such an agreement is arrived at, they shall prepare and file a plan showing the track so agreed upon for approval by the Board's Engineer. If they are unable to agree, let each file a plan showing its own proposal, and the Board will decide between the two, or try to locate a satisfactory one. The companies shall also agree, if possible, upon the division of cost of construction, otherwise the Board will apportion the cost.

The plan agreed upon, or the plans of each shall be filed within thirty days, the Board at the same time to be advised of agreement, or otherwise as to the division of cost as the case may be, the connection to be completed within 30 days after location is agreed upon or approved.

Christie, Henderson & Company v. The Grand Trunk Railway Company.

Christie, Henderson & Company of Toronto, applied to the Board, under Section 226 of the Railway Act, for an order directing the Grand Trunk Railway Company to construct, maintain and operate a branch line or spur from the applicant's line and stone quarry, between the town of Hespeler and the city of Guelph, to the branch line of the Grand Trunk operated between Harrisburg and Guelph, and to connect therewith $2\frac{1}{2}$ miles easterly from the town of Hespeler.

After hearing the application, and upon the report of the Chief Engineer, the Board, by order dated March 17, 1909, directed the railway company to construct, maintain and operate such branch line or spur.

Later by an order, dated March 26, 1909, the railway company was authorized to collect an additional sum for switching and handling the traffic to and from the side branch line or spur.

The parties failed to agree upon a rate or sum to be charged for such switching, and the railway company applied to the Board to fix the rate for said service.

Judgment, Chief Commissioner Mabee, November 10, 1909.

It was stated at the hearing that the railway company made no charge for switching services at many other industries situated as that of Messrs Christie, Henderson & Company's is. Some of these were competitive plants. When the Board made the order requiring the company to put this spur in, provision was made for the payment of a switching charge, but there was then no information furnished to the Board that it had been the custom of the company for many years to perform the like service without making an extra charge, the law requires all to be treated alike and it is absurd for the Board to require Messrs. Christie, Henderson & Company to make payments for services that the railway company makes no charge for at other industrial plants.

An order must go declaring that the railway company is not entitled to make any extra charge for switching performed at the spur in question.

Mr. Commissioner Mills concurred.

Order dated November 10, 1909, accordingly.

Township of Walpole v. The Grand Trunk Railway Company.

The township of Walpole applied to the Board for an order requiring the Grand Trunk Railway Company to place gates at a highway crossing already protected by an electric bell. It was shown that this crossing was particularly dangerous owing to obstructions to the view, the heavy traffic both on the highway and railway, and the bell being constantly out of repair.

Judgment, Chief Commissioner Mabee, January 6, 1910.

SESSIONAL PAPER No. 20c

On June 17, 1904, the township of Walpole made an application for an order requiring the Grand Trunk Railway Company to place a watchman, during the day-time, at the highway crossing where the air line crosses the Port Dover Plank road. The hearing was continued on June 25, 1904, and as a result of the application the railway company was required to install an electric bell. This was done and the bell has been the only protection that has since existed at this crossing.

It is not denied that the crossing is extremely dangerous. A mill on the southwest corner and a hotel and trees on the northwest corner, obstruct the view. There are four tracks that the public have to cross in driving to and coming from Jarvis; and within the last two or three years the Grand Trunk Railway Company in constructing its new station built it on the north side of the main line, whereas it formerly stood on the south side, and this requires all passengers coming to the station from the village and returning to the village from the station to pass over three tracks.

Complaints have repeatedly come to the Board that this bell is generally out of working order, and consequently a menace instead of a protection.

The matter was again heard before the Board at Toronto on April 27, last, and disposition of it was delayed in order that the railway company might furnish statistics of dates of inspection of the bell, and as to the condition that the same was found to be in by their signal engineer.

It was afterwards shown by this statement that between April 25, 1908, and April 25, 1909, the bell had been found to be out of working order no less than ten times; twice in October; twice in November; three times in December; once in March, and twice in April. Various reasons are given; mostly the cause is set down as being broken bond wires. Why this state of affairs should have been in existence so long here, it is difficult to understand.

There is a large amount of railway traffic at this point.

When the application was heard on June 25, 1904, it was shown that on the preceding Friday forty trains had crossed this road, twenty-two of which did not stop. They were mostly fast Wabash freight and passenger trains running at a high rate of speed. On one day in the week preceding June 25, a record was kept, and there were one hundred and sixty vehicular conveyances and three hundred pedestrians crossed the railway tracks.

The volume of traffic has not diminished. Apparently the attempted protection by means of an electric bell is a failure.

The Board caused the crossing to be inspected by one of its officers and his recommendation was that the electric bell did not afford sufficient protection, and he thought gates should be installed; and I am of the same opinion.

I do not know the specific terms under which the Wabash Railroad Company operates over this section of the Grand Trunk Railway Company; but it is the latter company only that the Board must look to to afford protection at this point. It is only fair to say, however, if it has any bearing on the matter as between the two companies, that this order would not be made were it not for the fast trains operated by the Wabash which do not stop at Jarvis. The Grand Trunk operations there would not require the establishment and operation of gates.

The danger is greatly enhanced by reason of the location of the hotel, the trees surrounding it, and the mill. It is said that even when the bell was in operation that the running of the mill prevented to some extent the ringing of the bell being heard.

For these reasons, the municipality should contribute towards the expense of maintaining these gates; and the order will be that the Grand Trunk Railway Company, within thirty days, file with the Board plans for the location of gates at the point in question, and install and fully equip the same within ninety days after the approval of the said plans.

1 GEORGE V., A. 1911

That thereafter the railway company shall maintain and operate these gates between the hours of seven in the morning and eight in the evening, and that there be paid out of the railway grade crossing fund twenty per cent of the cost of installing the gates and equipment; and that after the said gates are installed and commenced to be operated, the township of Walpole shall pay to the Grand Trunk Railway Company ten per cent of the cost of operation of the said gates; that these payments shall be made upon accounts being presented by the railway company to the township of Walpole, monthly or quarterly as the parties may arrange.

I am directing, in the meantime, that the gates be operated only from seven in the morning until eight in the evening, because when the application was originally before the Board, counsel for the township asked that a watchman be on duty only during these hours, and stated that after eight o'clock traffic at the highway was very limited. If, however, at any future time, it be found that these gates should be operated between the hours of eight in the evening and seven in the morning, the township shall have leave to make application to have such extended operation.

Re Canadian Northern and Grand Trunk Railway Companies.

The Canadian Northern Ontario Railway Company applied under section 227 of the Railway Act, for authority to cross with its tracks under and to divert the tracks of the Grand Trunk Railway near Brighton, Ontario, in accordance with the terms of crossing agreement between the companies, submitted and filed with the application.

The Board made an order, dated January 5, 1910, authorizing the crossing of the said tracks, subject to and upon the terms and conditions contained in the said agreement.

Later, and for the reasons contained in the judgment of the Chief Commissioner, this order was rescinded by order of March 8, 1910.

Judgment, Chief Commissioner Mabey, March 8, 1910.

The order of January 5, 1910, made in this matter, is beyond the power of the Board to make and must be rescinded. It was made upon the report of an engineer 'subject to terms of agreement made between the two railways.' I signed the order inadvertently and without knowing that the Board was being asked to do something that it had no authority whatever to do. The Board has now received a letter from L. L. Sherman, a landowner affected by the order, and it is that that brings to my attention the fact that the railways have obtained approval of an agreement that I think they had no power to make, and certainly one that the Board had no power to approve. In the main it is an agreement that the Canadian Northern may deviate the lines of the Grand Trunk, and this upon the application of the Canadian Northern. No section of the Act that I know of permits this.

Section 167 provides for the practice when a company desires to make a deviation of its line, and among other things it must supply a book of reference, and generally has to take the same steps as are required in connection with the location of the original line.

Section 168 prohibits the company from making any deviation until the provisions of section 167 are fully complied with. This has not been done, and clearly the only thing that can be done is to rescind the order and have the statute complied with if this work is to be done.

Re Drainage Applications to the Railway Commission.

Chief Commissioner Mabey, January 17, 1910:—

Section 251 of the Act places, with one or two exceptions, the lands of railways in the same position with reference to municipal drainage as are the lands of private owners, and provides that the like proceedings may, at the option of the muni-

SESSIONAL PAPER No. 20c

ciality, be taken for drainage across the lands of the railway company as may be taken across the property of any other land owner, and all the local drainage laws in each province have application to railway lands. In the province of Ontario, all of the provisions of the Municipal Drainage Act apply to the lands of railway companies. Therefore, where an engineer makes a report which affects a railway company, and the township by provisional by-law adopts the same, it seems to be the duty of the railway company, if it objects to the assessment, or the legality of the drainage scheme, to apply to the Court of Revision and thence to the county judge, in so far as the assessment is concerned; or to the referee, if an attack on the validity or legality of the scheme or by-law is contemplated. Where the drain is to be constructed or reconstructed upon, along, under or across the railway, or lands of the company, then subsection 4 provides that no such drainage works shall be so constructed or reconstructed until the *character of the same, or, the specifications of the plans*, have been first submitted to and approved of by the Board.

The practice in the past has been to submit to the Board, along with the material, the engineer's report, and plan of the whole drainage area, with the names of all the land owners affected by the proposed work, &c. In some instances, the actual bridge or culvert plans, so far as the work affects the railway, have not been submitted.

It would seem that the proper view of this legislation is that the Railway Board has nothing whatever to do with the general drainage scheme, with the apportionment or distribution of the cost of the work, or the fairness or legality of the proceedings, or the validity of the by-law. The legislature has provided forums for the adjustment of all these matters, and the Railway Board is called in merely for the purpose of seeing that the structure that is proposed for the drainage work is of a character that will not interfere with the safe operation of the railway.

In future, upon applications of this sort, all that need be filed, or submitted to the Board for approval, will be the estimate of the engineer of the volume of water that will probably pass through the culvert or opening through the drainage lands, and the size he thinks the opening should be. This should be in the form of a statutory declaration; and the proposed mode of carrying the railway over the opening or culvert, with all proper plans of that work, should accompany the application.

The whole matter then resolves itself simply into an engineering question, and the Board's Chief Engineer being satisfied of the character of the bridge or culvert plans, the application to the Board becomes merely a formal one.

No good can be accomplished by the discussion before the Board of the area to be drained, the legality of the proceedings, and a large number of other matters that the Board has in some instances in the past been called upon to hear. The application may be made either before or after the final passing of the by-law.

APPENDIX D.

OTTAWA, April 20, 1910.

SIR,—I have the honour to submit, for the 5th annual report of the Board, a memorandum of the freight, passenger, express, telephone, telegraph, and sleeping and parlour car schedules filed with the Board from November 1, 1904, when, by order of the Board, under the authority of section 311 of the Railway Act, 1903, the railway companies commenced filing their tariffs, to March 31, 1909; and from April 1, 1909, to March 31, 1910, inclusive; also, of the more important orders relating to traffic issued by the Board to March 31, 1910:—

SCHEDULES RECEIVED FROM NOVEMBER 1, 1904, TO AND INCLUDING MARCH 31, 1909.

Freight—			
Local tariffs.. . . .	3,030		
Supplements.. . . .	4,120	7,150	
Joint tariffs.. . . .	5,886		
Supplements.. . . .	13,276	19,162	
International tariffs.. . . .	20,884		
Supplements.. . . .	52,519	73,403	
		—	99,715
Passenger—			
Local tariffs.. . . .	2,580		
Supplements.. . . .	1,671	4,251	
Joint tariffs.. . . .	1,150		
Supplements.. . . .	1,262	2,412	
International tariffs.. . . .	5,015		
Supplements.. . . .	3,812	8,827	
		—	15,490
Express—			
Local tariffs.. . . .	2,019		
Supplements.. . . .	10,477	12,496	
Joint tariffs.. . . .	1,010		
Supplements.. . . .	4,547	5,557	
International tariffs.. . . .	1,541		
Supplements.. . . .	474	2,015	
		—	20,068
Telephone—			
Local tariffs.. . . .	673		
Supplements.. . . .	396	1,069	
Joint tariffs.. . . .	1,121		
Supplements.. . . .	444	1,565	
International tariffs.. . . .	304		
Supplements.. . . .	1,604	1,908	
		—	4,542
Combined totals, all schedules.. . . .			139,815

SESSIONAL PAPER No. 20c

SCHEDULES RECEIVED FROM APRIL 1, 1909, TO AND INCLUDING
MARCH 31, 1910.

Freight—			
Local tariffs.. . . .	790		
Supplements.. . . .	3,728	4,518	
Joint tariffs.. . . .	1,181		
Supplements.. . . .	7,718	8,899	
International tariffs.. . . .	5,350		
Supplements.. . . .	25,562	30,912	
		<hr/>	44,329
Passenger—			
Local tariffs.. . . .	679		
Supplements.. . . .	819	1,498	
Joint tariffs.. . . .	297		
Supplements.. . . .	760	1,057	
International tariffs.. . . .	1,384		
Supplements.. . . .	2,083	3,467	
		<hr/>	6,022
Express—			
Local tariffs.. . . .	274		
Supplements.. . . .	3,714	3,988	
Joint tariffs.. . . .	210		
Supplements.. . . .	2,521	2,731	
International tariffs.. . . .	56		
Supplements.. . . .	250	306	
		<hr/>	7,025
Telephone—			
Local tariffs.. . . .	29		
Supplements.. . . .	123	152	
Joint tariffs.. . . .	38		
Supplements.. . . .	51	89	
International tariffs.. . . .	72		
Supplements.. . . .	557	629	
		<hr/>	870
Telegraph—			
Tariffs.. . . .	42		
Supplements.. . . .	15	57	
		<hr/>	57
Sleeping and Parlour Car Tariffs—			
Local tariffs.. . . .	17		
Supplements.. . . .	16	33	
Joint tariffs.. . . .	2		
Supplements.. . . .	8	10	
International tariffs.. . . .	16		
Supplements.. . . .	10	26	69
		<hr/>	<hr/>
Combined totals, all schedules.. . . .			58,372
Grand Total.. . . .			198,187

SUMMARY OF TRAFFIC ORDERS OF GENERAL INTEREST.

March 9, 1904.—Order permitting railway companies to continue their reduced fares to clergymen; also to students of universities, colleges, and schools, to and from their homes.

June 28, 1904.—Reduction ordered in the rates on oiled clothing, in carloads, from Toronto to Halifax, Winnipeg and Calgary.

July 16, 1904.—Canadian Freight Classification No. 12, with Supplement No. 1, and Ruling Circular No. 1, approved.

July 30, 1904.—Order reducing rates on cooperage stock in carloads.

July 30, 1904.—Railway companies ordered to cease charging prohibitive rates on cedar lumber, ties, &c., and to substitute tolls which shall not discriminate between cedar and other woods; also to amend the Canadian Freight Classification by including rails, fence posts, telegraph poles, and ties with other forest products, instead of carrying these commodities as formerly by 'special contract' only.

July 30, 1904.—Railway companies directed to reduce their rates on glass bottles, in carloads, from Wallaceburg, Ont., to Toronto, Hamilton, Berlin, London, and Montreal.

October 3, 1904.—Order regarding special rates on material and machinery for new industries. Companies directed to report applications to the Board, which will deal with each on its merits.

October 3, 1904.—Application of Grand Trunk Railway Co. for permission to charge a less rate on coal to Cobourg, Ont., for manufacturing purposes than charged to ordinary consumers and dealers, declined.

October, 1904.—Reduction ordered in the rates on coal from the Niagara and Detroit frontiers to Almonte, Ont.

October 10, 1904.—Order revising and reducing the classification of fruit, and prescribing a maximum charge for icing fruit cars in transit.

October 10, 1904.—Order reducing rate on split peas, for export, to the same basis as flour, for export.

October 31, 1904.—Railway companies directed to desist from charging higher rates on cedar lumber from the mills in British Columbia than charged on pine, fir, and spruce.

December 29, 1904.—Disallowance of certain advanced freight tariffs on grain products from Ontario to the Maritime Provinces, which had been issued without legal notice. Companies directed to make restitution to shippers.

February 9, 1905.—Conditions prescribed under which railway companies may make and report to the Board special rates in certain cases, under section 275 of the Railway Act, 1903.

February 9, 1905.—Order prescribing under what circumstances the Board will receive telegraphic notices of immediate and limited changes in freight rates under emergency conditions.

February 9, 1905.—Canadian Northern Railway Co. authorized to carry material and machinery for new industrial works at Fort Frances, Ont., at reduced rates.

March 6, 1905.—Lower rates ordered on cattle from Ontario points to Montreal, St. John, West St. John and Portland, for export, so as to bring them into harmony with those paid by United States shippers.

April 15, 1905.—Railway companies ordered to discontinue charging higher rates on grain between local points in Ontario and Quebec than charged on flour and other grain products between the same points.

June 2, 1905.—Preferential coal rates from Port Stanley and Rondeau, Ont., ordered discontinued.

July 5, 1905.—Restoration ordered of commodity rates formerly charged on car-load shipments of metallic shingles.

SESSIONAL PAPER No. 20c

July 13, 1905.—Cartage and other allowances by railway companies to shippers to offset disadvantages of location ordered discontinued, unless published in the companies' tariffs.

July 25, 1905.—Grand Trunk Railway Co., ordered to provide reasonable and proper facilities for the interchange of traffic at London, Ont., and its tolls prescribed for switching traffic to and from the Canadian Pacific Railway.

July 25, 1905.—Reduction ordered in rates from Ontario on all freight traffic to Montreal, Quebec, and the Atlantic seaboard, for export.

September 5, 1905.—Railway companies required to place their rates on coal from frontier ports of entry, and lake ports, to interior points in Ontario, on an equal mileage basis.

—, 1905.—Equalization of freight rates ordered to points between North Bay and Sault Ste. Marie, Ont., as between Toronto and Collingwood shippers.

September 19, 1905.—Order reducing rate charged at New Westminster, B.C., for switching grain to the distillery at Sapperton, and prescribing switching tolls within the New Westminster terminals.

October 14, 1905.—Reduced rates prescribed on stone from Manitoba quarries to Winnipeg.

October 17, 1905.—Canadian Pacific and Canadian Northern Railway Companies ordered to interchange carload freight without transshipment at Winnipeg and St. Boniface, Man., for shipment from, or delivery at, those points.

October 31, 1905.—Reduced rates ordered on beans, in carloads, from shipping points in Ontario.

November 15, 1905.—Provision made for fair distribution of empty cars at Lake Huron and Georgian bay ports for the movement of Northwest grain during car shortage.

November 28, 1905.—Interchange facilities ordered at Lindsay, Ont., between the Grand Trunk and Canadian Pacific Railways, and tolls prescribed for switching local traffic.

December 14, 1905.—Reduced rates prescribed on extra compressed hay and fodder, in carloads, from Grand Trunk and Canadian Pacific Railway stations in Quebec to Atlantic ports north of and including Boston, for export.

December 14, 1905.—Ordered that rates on grain and grain products, in carloads, from points west of Montreal to and including Cornwall and Finch, Ont., and south of the St. Lawrence in the counties of St. John's, Laprairie and Napierville, Chateauguay and Huntingdon, to points east of Levis, Que., do not exceed the rates from Montreal to the same points by more than 2 cents per 100 pounds, nor by more than the differences existing at date of order.

January 6, 1906.—New car service or 'demurrage' rules, more favourable to the public than the old, promulgated by the Board for use on all railways subject to its jurisdiction.

February 14, 1906.—Order reducing the rate charged by the Red Mountain Railway Company for switching ore at Rossland, B.C., for the Trail smelter.

(Amended by order, November 16, 1906).

February 14, 1906.—Reduction ordered in the rate on grain, in carloads, from the Canadian Pacific elevator at Owen Sound to unloading sidings within the company's terminals at the same place.

March 24, 1906.—Reduced minimum carload weights prescribed for freight loaded in box cars longer than the standard inside length of 36 feet 6 inches.

March 24, 1906.—Additions ordered to the articles which may be shipped in mixed carloads at carload rates.

March 24, 1906.—Reductions in minimum chargeable weight for light and bulky articles requiring open cars for carriage.

1 GEORGE V., A. 1911

June 6, 1906.—The minimum carload weight of charcoal, authorized by the Canadian Freight Classification, not to be exceeded in commodity tariffs on same. Revision of commodity rates from Sault Ste. Marie ordered accordingly.

June 29, 1906.—Reduced rates ordered on packing house products, in carloads, from packing points in Ontario to Montreal, for export.

July 18, 1906.—Tolls prescribed to be charged by the Canadian Pacific Railway Co. for switching traffic interchanged with the Grand Trunk Railway for loading or unloading at London, Ont.

July 19, 1906.—Authority granted the Dominion Atlantic Railway to charge the express rate on fresh fish on special freight trains making express time, Halifax to Yarmouth, N.S., for export to Boston, when so consigned, and in quantities beyond the handling capacity of the express company.

July 31, 1906.—Renewal of the Montreal to Toronto westbound rate ordered on wall paper from Toronto to Montreal and Ottawa, and as the maximum to intermediate points, with corresponding reductions to points east of Montreal.

August 1, 1906.—Order, supplementing order of July 30, 1904, requiring the carriage of railway ties to Canadian points at rates not exceeding the non-competitive special tariff rates on common lumber, also to United States joint rate points. Order of July 30, 1904, against the Kingston & Pembroke Railway Co. made applicable to all railway companies.

August 11, 1906.—Railway companies required to abolish the additional arbitrary rate of 5 cents per 100 lbs. hitherto charged to British Columbia coast points on transcontinental traffic from Eastern Canada; also to substitute the minimum carload weights of the Canadian Freight Classification for the higher minima previously charged on the said traffic when loaded in cars longer than the standard car of 36 feet 6 inches; also to reduce the weight allowance on lumber used for bracing, or otherwise safeguarding, carload shipments of the said transcontinental traffic requiring such protection, to the basis allowed elsewhere in Canada.

October 13, 1906.—Supplement No. 7 to Canadian Freight Classification No. 12 approved.

October 13, 1906.—Nelson and Fort Sheppard and Canadian Pacific Railway Companies ordered to furnish adequate and suitable accommodation and facilities for the carriage and interchange of lumber, shingles, &c., from Salmo and Ymir, B.C., to eastern Canadian points.

November 9, 1906.—Rates prescribed on freight traffic to rail points and lake ports of call in the districts of Kootenay and Yale, B.C.

November 12, 1906.—Supplement No. 8 to Canadian Freight Classification No. 12 approved.

November 19, 1906.—Promulgation of regulations relating to the publication and filing of express tariffs.

November 19, 1906.—Grand Trunk and Canadian Pacific Railway Companies authorized, under certain conditions, to refund to exporters of cheese the tolls collected for cartage to the Montreal wharfs during the season of navigation, 1905, on joint application of the said railway companies and exporters.

December 6, 1906.—Promulgation of regulations relating to the publication and filing of tariffs of telephone tolls.

February 15, 1907.—Grand Trunk and Canadian Pacific Railway Companies authorized, under certain conditions, to refund to exporters of cheese the tolls collected for cartage to the Montreal wharfs during the season of navigation, 1906, on joint application of the said railway companies and exporters.

March 13, 1907.—Reduced rate prescribed on logs, in carloads, from Brulé Lake, Ont., to Renfrew, Ont.

SESSIONAL PAPER No. 20c

March 18, 1907.—Canadian Pacific and Grand Trunk Railway Companies ordered to reduce their passenger rates on all their lines in Canada, east of the Rocky Mountains, to a maximum of 3 cents per mile.

April 11, 1907.—Approval of Supplement No. 8 to Canadian Freight Classification No. 12.

April 12, 1907.—Telephone companies directed to file particulars of any free service or tolls granted by them lower than the published tariff tolls; also particulars of cases in which the service of the companies is given wholly or partly for considerations other than monetary payments.

May 22, 1907.—Granting leave to the St. John Ice Company to institute legal proceedings against the New Brunswick Southern Railway Company, for transporting ice for other parties at less than the published tolls.

May 30, 1907.—Authorizing the Canadian Pacific Railway Company to grant reduced rate from British Columbia points to Montreal and return to members of Bisley team.

June 25, 1907.—Directing the Grand Trunk Railway Company to furnish cars and all proper facilities for receiving, loading and transporting import traffic received over the wharfs at Montreal, irrespective of cartage companies through whom the traffic is offered.

June 29, 1907.—Approving Canadian Freight Classification No. 13.

July 2, 1907.—Ordering that the rate on imported iron and steel, in carloads, from Montreal harbour to Simplex Railway Appliance Company, at Bluebonnets, be 2½ cents per 100 lbs., including the service of checking the goods from the carter to the car.

July 3, 1907.—Approving Supplement No. 9 to Canadian Freight Classification No. 12.

July 5, 1907.—Grand Trunk Railway Company ordered to issue third-class tickets at 2 cents per mile, and to run third-class carriages daily, between Toronto and Montreal.

July 6, September 23, November 13, 1907.—International and Toronto Board of Trade Rate Cases. Grand Trunk, Canadian Pacific, Michigan Central, Péré Marquette, Wabash, Toronto, Hamilton and Buffalo, and Canadian Northern Ontario Railway Companies ordered to revise and republish their special local class freight tariffs (known as 'town tariffs'), in the territory east of and including North Bay, and east of the Georgian bay, Lake Huron, and the St. Clair and Detroit rivers, and south of the Ottawa river, on a uniform and modified mileage scale prescribed by the Board; also to revise and republish their through freight rates from central and western Ontario to eastern Canadian points, the maximum rates from Canadian points on the Detroit and St. Clair river frontier to all points east to the Atlantic and north to the Ottawa river not to exceed the rates on international traffic from Detroit and Port Huron to the same points; the revised rates to become effective not later than January 1, 1908.

July 6, 1907.—Requiring the railway companies to furnish to the Board various particulars relating to their traffic operations, not covered by section 375 of the Railway Act.

July 17, 1907.—Authorizing the Canadian Pacific Railway Company to provide rates to British Columbia coast terminals on grain and mill stuffs, for export to Asia, by the issue and filing of special rate notices.

July 26, 1907.—Standard passenger rate of Alberta Railway and Irrigation Company reduced to 4 cents per mile, and company required to furnish return tickets at one and two-third times single fare.

August 6, 1907.—Vancouver, Westminster and Yukon Railway Company and the Canadian Pacific Railway Company ordered to furnish adequate and suitable accom-

1 GEORGE V., A. 1911

modation and facilities for the carriage of traffic from points on the Vancouver, Westminster and Yukon Railway to points on the Canadian Pacific Railway.

August 6, 1907.—Crow's Nest Southern Railway Company and the Canadian Pacific Railway Company ordered to furnish adequate and suitable accommodation and facilities for the carriage of traffic from points on the Crow's Nest Southern to points on the Canadian Pacific Railway.

November 4, 1907.—The Grand Trunk Railway Company ordered to reduce its rates from Rouse's Point, N.Y., to Coteau Junction and St. Polycarpe, P.Q., to 80 cents per gross ton on anthracite and 70 cents on bituminous coal.

November 21, 1907.—Requiring the Grand Trunk Railway Company to reduce certain rates on paper from Merritton, St. Catharines and Thorold Mills to Montreal so as not to be greater than those charged from Brantford to Montreal.

December 10, December 23, 1907, January 15, January 30, 1908.—Orders relating to arrangements for proper connections for passenger and mail traffic at Brockville, to be furnished by the Grand Trunk and Canadian Pacific Companies.

Order No. 6689, March 29, 1909.—Directing all railway companies, subject to the Railway Act to file standard tariffs of maximum sleeping and parlour car tolls.

January 30, 1908.—Authorizing the chairmen of the Official, Western and Southern Classification Committees to file with the Board copies of their freight classifications and supplements on behalf of United States railway companies which file international freight tariffs governed by these classifications.

Order No. 4533, March 25, 1908.—Railway companies authorized to issue to secretaries of railroad Y.M.C.A.'s located on their lines, of which their employees are members, and for their household effects, free or reduced transportation, when traveling on secretarial duties or being transferred.

Order No. 4680, May 7, 1908.—Carload rating of third-class prescribed for books in cases.

Order No. 4682, May 5, 1908.—Intercolonial and Grand Trunk Railway Company absolved from agreement with Canadian Pacific Railway *re* freight rates to Fredericton, N.B., on traffic from points west of Montreal. St. John, N.B., basis of rates restored to Fredericton.

Order No. 4781, May 27, 1908.—Grand Trunk Railway and Wabash Railroad Companies to provide for interchangeability of passenger tickets between all stations in Ontario through which both companies run passenger trains.

Order No. 4784, April 23, 1908.—Grand Trunk and Canadian Pacific Railway Companies required to arrange with Canadian Northern Ontario Railway Company for joint tariff of tolls and facilities for passengers to and from non-competitive points on the Canadian Northern Ontario Railway.

Order No. 4796, May 29, 1908.—Fixing the toll to be paid the Michigan Central Railroad Company by the John Campbell Milling Company at St. Thomas for switching their traffic received from and destined to points on or *via* Grand Trunk Railway, and directing the Michigan Central Railroad Company to refund overcharges with interest.

Order No. 4884, June 17, 1908.—Approval of revised classification of military stores and ordnance.

Order No. 4886, June 18, 1908.—Reduction and realignment of rates on sugar from Vancouver to points in Alberta, Saskatchewan and Manitoba.

Order No. 4988, July 8, 1908.—Prescribing uniform tolls for terminal inter-switching services by all companies subject to the Railway Act.

Order No. 5117, July 30, 1908.—Permitting railway companies to file tariffs of tolls through outside agents, under powers of attorney filed with the Board.

Order No. 5774, December 3, 1908.—Authorizing Vancouver, Victoria & Eastern Railway and Navigation Company to meet on the Pacific coast, by special competitive tariffs, the competition of independent water carriers not subject to the Railway Act.

SESSIONAL PAPER No. 20c

Order No. 5954, December 21, 1908.—Directing railway companies to publish and file complete tables of distances between all stations in Canada.

Order No. 5955, December 15, 1908.—Canadian Pacific Railway and Canadian Northern Railway Companies to publish and file joint tariff on grain and grain products from points on the line of the Qu'Appelle, Long Lake & Saskatchewan Railway and Steamboat Company to points in British Columbia.

Order No. 6147, January 21, 1909.—Limiting the stopover toll that the Canadian Pacific Railway Company may charge on western grain and grain products held for orders at Cartier, Ont.

Order No. 6148, January 21, 1909.—Limiting the stop-over toll that the Grand Trunk Railway Company may charge on lumber and forest products held at Sarnia Tunnel for orders.

Order No. 6166, January 13, 1909.—Reducing the rates on western grain, ex vessel, from Kingston to points in Quebec and the Maritime Provinces.

Order No. 6167, February 4, 1909.—Prescribing conditions for the carriage of acetylene gas by express.

Order No. 6168, February 3, 1909.—Reducing the rate on coal from Niagara frontier points to Lindsay, Ont.

Order No. 6186, February 1, 1909.—Prescribing allowance to be made by railway companies to shippers who have to supply temporary inside grain doors to cars in which to ship grain.

Order No. 6242, February 8, 1909.—Prescribing form of release of responsibility for freight shipped to flag stations upon lines of all railway companies subject to the Railway Act.

January 30, 1908.—Authorizing the Chairman of the Official, Western and Southern Classification Committees to file with the Board copies of their classifications and supplements on behalf of United States railway companies which file international freight tariffs governed by these classifications.

Order No. 6701, February 19, 1909.—Prescribing allowance to be made by railway companies to shippers who have to furnish temporary protective doors to enable cars to be used for shipments of coal.

Order No. 6702, March 25, 1909.—Establishing the non-competitive lumber rates as the maxima to be charged on wooden telegraph, telephone, and trolley poles, between points east of Port Arthur when loaded on single cars; and prescribing bases of charges for such poles requiring more than one car for carriage.

Order No. 6749, February 11, 1909.—Reducing rates on coal from Bienfait, Sask., to certain points in Manitoba and Saskatchewan.

Order No. 6763, February 19, 1909.—Prescribing allowance to be made by railway companies to live stock shippers who are not supplied with stock cars for live stock shipments and have to furnish lumber for suitable doors to box cars.

Order No. 6859, February 6, 1909.—Prescribing tolls to be charged by the Canadian Pacific and Canadian Northern Railway Companies for interswitching grain held in transit at Winnipeg for milling, treatment, or storage, and re-shipment.

Order No. 6901, April 16, 1909.—A toll of not over \$3 per carload approved for changing the destination of carload traffic while in transit.

Order No. 6947, April 26, 1909.—Canadian Pacific Railway Company directed to arrange with its connections for publication of revised tariffs on the basis of \$1.60 per 100 lbs. on oranges in straight carloads, or on mixed carloads of oranges and lemons, and \$1.45 on lemons in straight carloads, from California points to Regina, via Kingsgate, B.C., or Emerson, Man.

Order No. 6955, May 6, 1909.—Dismissal, on grounds of non-jurisdiction, of application in *re* railway ties from Rivière du Loup to Bennington, Vt., for order directing the Intercolonial Railway and its connections to comply with previous orders prescribing rate basis for carriage generally of railway ties.

1 GEORGE V., A. 1911

Order No. 6969, May 6, 1909.—Grand Trunk and Canadian Pacific Railway Companies directed to honour from the international boundary, and in respect of their lines in Canada, through tickets and through baggage checking arrangements issued and provided by initial United States railway companies from points in the United States to non-competitive points on the Canadian Northern Ontario Railway.

Order No. 6996, April 29, 1909.—On application of Montreal Board of Trade, basis of rates prescribed from Montreal on western lake-borne grain and grain products to Canadian Pacific Railway points in New Brunswick.

Order No. 7023, May 10, 1909.—Supplement No. 1 to Canadian Classification No. 14 approved.

Order No. 7045, May 4, 1909.—Montreal Park and Island Railway Company ordered to extend to Mount Royal ward (Cote des Neiges) as favourable treatment as afforded to residents in Notre Dame de Grace. (See orders 7975 and 7976.)

Order No. 7055, May 20, 1909.—Restraining the Elgin and Havelock Railway Company from collecting tolls until by-law authorizing the preparation and issue of tariffs had been submitted to and approved by the Board (Rescinded on compliance by order 7104, May 28).

Order No. 7056, May 20, 1909.—Restraining the Salisbury and Harvey Railway Company from collecting tolls until by-law authorizing the preparation and issue of tariffs had been submitted to and approved by the Board.

Order No. 7085, May 25, 1909.—Application of Times Publishing Company, of London, for an order directing the Canadian Pacific Railway, the Great Northwestern, and the Western Union Telegraph Companies to transmit its messages to the Marconi Wireless Telegraph Station, Glace Bay, N.S., at the rate charged to other points along the Atlantic coast of Canada, dismissed pending inquiry into telegraph tolls generally.

Order No. 7093, May 31, 1909.—On complaint of the British American Oil Company, of Toronto, that the Grand Trunk Railway Company unjustly discriminated against its crude oil shipments from Stoy, Ill., to Toronto, by refusing to apply the published and filed joint tariff 5th class rates under the Classification, it was declared that the legal rate was the said 5th class joint through rate; and it was ordered that the Grand Trunk Railway Company be authorized to refund the difference between the said rate of 20 cents per 100 lbs. and the rate of 32½ cents per 100 lbs. charged and collected on the said shipments. (By order No. 7479, July 6, 1909, leave given Grand Trunk Railway to appeal to Supreme Court upon questions of law involved.)

Order No. 7164, June 3, 1909.—Approving form of release, or special contract, for the shipment of silver and other valuable ores.

Order No. 7246, June 16, 1909.—Requiring the companies forming the White Pass and Yukon Route to file within thirty days tariffs of tolls covering all through freight traffic received from vessels at Skagway, Alaska, and destined to White Horse, Y.T., or to intermediate points between the international boundary and White Horse; and on freight traffic from White Horse and the said intermediate points destined to Skagway; also to file the basis of allotment of the said tolls between the said companies.

Order No. 7277, June 16, 1909.—Prescribing joint through rates on lumber, shingles, and other forest products from points on the Vancouver, Westminster and Yukon Railway between New Westminster and Vancouver, via New Westminster or Vancouver to points on the Canadian Pacific Railway other than those reached directly by the Great Northern or its connections, on the basis of 1 cent per 100 lbs. over the rates of the Canadian Pacific Railway from Vancouver to the same point. (See order 9187.)

Order No. 7325, June 22, 1909.—Rescinding clause 'h' of Order No. 3258 of July 6, 1907 (Toronto Board of Trade Rate Case), prohibiting advances in certain special commodity rates then existing without the sanction of the Board, the said clause having served its intended purpose.

SESSIONAL PAPER No. 20c

Orders Nos. 7343, June 23, and 8337, October 8, 1909.—Requiring the absorption by the railway companies of the Montreal wharfage and port warden's charges on cheese shipped from points west of Montreal, on local bills of lading, for subsequent exportation from the port of Montreal, provided the cheese is exported not later than May 31 of the following St. Lawrence navigation season.

Order No. 7494, July 7, 1909.—Canadian Express Company's cancellation of rate on fruit shipments from Queenston, Ont., to Toronto, disallowed.

Order No. 7495, June 25, 1909.—Reducing the joint rate on bituminous coal from Black Rock, N.Y., and Suspension Bridge, N.Y., to Marlbank, Ont.

Order No. 7562, July 15, 1909.—Approval of two forms of uniform bill of lading, one for 'order' shipments, the other for 'straight' shipments, for use on all railways subject to the Railway Act.

Order No. 7585, July 23, 1909.—Alberta Railway and Irrigation Company, required to reduce its passenger toll to 3 cents per mile, with one-sixth off for round-trip tickets, and to revise its special freight tariffs to the basis of the Canadian Pacific Railway in the same territory.

Order No. 7599, July 24, 1909.—All railway companies subject to the Board's jurisdiction ordered to conform to the rules and regulations from time to time approved by the Master Car Builder's Association governing the loading of lumber, logs and stone on open cars.

Order No. 7602, July 23, 1909.—Canadian Pacific and Canadian Northern Railway Companies directed to publish and file joint tariffs of through rates on carload traffic included in classes 6 to 10 of the Canadian Classification, between Edmonton and North Edmonton and all points on Canadian Pacific Railway south of and including Red Deer, east of and including Daysland and Tees, and east and west of Calgary and Macleod, via Strathcona Junction, on the basis of 1 cent per 100 lbs. higher than the Canadian Pacific Railway rates to or from Strathcona.

Order No. 7881, August 27, 1909.—Regulations for the receiving, forwarding, and delivering of explosives prescribed for the observance of every railway company within the legislative authority of parliament which accepts explosives for carriage.

Order No. 7975, June 1, 1909.—Montreal, Park and Island Railway Company granted leave to appeal to Supreme Court as to 'Whether it is right or proper for the Board, in making Order No. 7045, May 4, 1909, to overlook contract dated November 7, 1907, between the Montreal, Park and Island Railway Company and Notre Dame de Grace Municipality.'

Order No. 7976, June 1909.—Montreal Street Railway Company given leave to appeal to the Supreme Court upon the following question, viz.: 'Whether upon a true construction of sections 91 and 92 of the British North America Act, and of section 8 of the Railway Act, the Montreal Street Railway Company is subject, in respect of its through traffic with the Montreal, Park and Island Railway Company to the jurisdiction of the Board of Railway Commissioners for Canada.'

Order No. 8184, September 25, 1909,—Supplement No. 2 to Canadian Classification No. 14 approved.

Order No. 8513, October 16, 1909.—Grand Trunk Railway Company ordered to reduce its rate for moving grain from its Point Edward elevator to King Milling Company's mill at Sarnia to 1½ cents per 100 pounds.

Order No. 8860, December 10, 1909.—Prescribing allowances to be made by railway companies to shippers who are compelled to furnish temporary inside car doors to enable cars to be used for certain traffic. (Rescinds orders 6186 and 6764.)

Order No. 8982, November 22, 1909,—Prescribes regulations for the free weighing of cars containing bituminous coal at ports of entry in Ontario; also for re-weighing on destination or intermediate track scales at consignee's request and expense, on payment of extra prescribed toll.

1 GEORGE V., A. 1911

Order No. 9031, December 2, 1909,—Directing the Niagara, St. Catharines & Toronto Railway Company to restore the joint rate of two cents per 100 pounds formerly charged on wood pulp, in carloads, from Thorold, Ontario, to Suspension Bridge, N.Y.

Order No. 9099, December 23, 1909,—On complaint of certain firms in St. John, N.B., against an increase in rates on shipments of iron and steel from St. John to Quebec Central Railway points, the Canadian Pacific Railway Company ordered to restore the former rates.

Order No. 9128, December 21, 1909.—On application of Winnipeg manufacturers for an order directing the railway companies to equalize their freight rates on metallic shingles and siding from eastern points to Manitoba, Saskatchewan and Alberta, as against freight tolls charged on the unmanufactured material, order No. 653, dated July 5, 1905, directing the restoration of commodity rates formerly charged on metallic shingles and siding, rescinded, insofar as it related to shipments to points west of and including Port Arthur.

Orders Nos. 9156, January 3, and 9813, March 9, 1910, directing that the rate to be charged by the express companies for the carriage of daily newspapers from Winnipeg shall be the same as charged by the Dominion Express Company in eastern Canada.

Order No. 9164, December 22, 1909,—Canadian Pacific Railway, Great North Western and Western Union Telegraph Companies ordered to postpone their revised code message regulations between points in Canada until July 1, 1910.

Order No. 9187, January 7, 1910 (Supplementary to order 7277).—Prescribes joint through rates on lumber, shingles and other forest products from points on the Vancouver, Westminster & Yukon Railway, between New Westminster and Vancouver, via New Westminster or Vancouver and the Canadian Pacific Railway, to points on the Canadian Northern Railway, on the basis of one cent per 100 pounds over the rates of the Canadian Pacific Railway from Vancouver to the same points.

Order No. 9271, January 12, 1910,—Michigan Central, Canadian Pacific and Toronto, Hamilton & Buffalo Railway Companies ordered to publish and file a joint rate on coal not exceeding \$2.60 per ton from Black Rock and Suspension Bridge, N.Y., to Sudbury, Ont.

Order No. 9362, January 24, 1910.—Reducing the classification of certain manufactured articles of asbestos.

Order No. 9444, February 4, 1910,—Application of the railway companies for variation in the Canadian Classification rating of automobiles, set up, dismissed; and rating of automobiles, taken apart, in box cars, reduced to double first-class.

Order 9751, February 28, 1910,—Canadian Pacific Railway Company authorized to carry a party of McGill mining students at reduced fares from Montreal to points in British Columbia, &c., for educational purposes.

Order No. 10005, March 22, 1910. Request of Elder Dempster & Co., of Montreal for the application by the railway companies of the export tariff to the ports of Montreal, Quebec, St. John, and Halifax, on traffic carried by the applicants' steamships, the Tehuantepec National Railway of Mexico, and the Canada Mexican S.S. Line, dismissed, without prejudice to the rights of any persons interested to any relief the Board may deem proper upon a different set of facts being presented to it.

I have the honour to be, Sir,

Your obedient servant,

J. HARDWELL,
Chief Traffic Officer.

A. D. CARTWRIGHT, Esq.,
Secretary.

SESSIONAL PAPER No. 20c

APPENDIX E.

LIST OF INSPECTIONS MADE BY THE ENGINEERING DEPARTMENT
OF THE RAILWAY COMMISSION, APRIL 1, 1909, TO MARCH 31, 1910,
INCLUSIVE.

April 1.—Inspection of highway crossing over Temiscouata Railway, parish of Notre Dame du Lac, P.Q.

April 1.—General inspection, Temiscouata Railway.

April 2.—Inspection of crossing of Raglan, Argyle, Lisgar, Lochiel and Bonnechere streets by the Canadian Pacific Railway and the Kingston and Pembroke Railway in the town of Renfrew, Ont.

April 2.—Inspection (Lauder-Tilson branch) from Broomshill, mileage 16.0 to 28.5, distance 12.5 miles, opening for traffic, Canadian Pacific Railway.

April 6.—File 9,515, inspection, flooded lands, Rosenfelt and vicinity.

April 7.—Inspection for opening for traffic of the Atlantic, Quebec & Western Railway from mileage 19.75 to mileage 20.5 at the new station at Port Daniel, Que.

April 7.—Inspection bridge abutments on the Atlantic, Quebec and Western Railway at the crossing of the Des Ilots brook, township of Newport, county of Gaspé, Que.

April 7.—Inspection of steel bridge on the Atlantic, Quebec and Western Railway over highway on east side of the North River bridge at Port Daniel, Ont.

April 7.—Inspection steel bridge on the Atlantic, Quebec and Western Railway over Pabos backwater near Grand Pabos, Que.

April 7.—Inspection bridge on the Atlantic, Quebec and Western Railway over River Aux Canard, township of Newport, county of Gaspé.

April 8.—Inspection of Atlantic and Lake Superior Railway, account section 263 of Railway Act.

April 12.—Inspection Canadian Pacific Railway Eburne branch from New Westminster, B. C., mileage 0 to Eburne, mileage 9.64, opening for traffic.

April 12.—Inspection of crossing of Raglan street, Renfrew, Ont., by the Grand Trunk Railway.

April 13.—Inspection of gates installed by the Grand Trunk Railway at Thames street in the town of Ingersoll, Ont.

April 14.—Inspection of highway crossings in the township of Hullett by the Guelph and Goderich Railway (Canadian Pacific Railway).

April 14.—Inspection of highway crossings at mileage 62.5 and 62.8 on the line of the Guelph and Goderich Railway (Canadian Pacific Railway) in township of Morris, just east of village of Blyth, Ont.

April 15.—Inspection Grand Trunk Railway opposite lot 12, concession 9, township of Ops, as to complaint of W. J. Reid *re* drainage.

April 15.—Inspection Canadian Pacific Railway trestle over Cobb's lake, Montreal and Ottawa section, Canadian Pacific Railway.

April 15.—Inspection of Hawkesbury interlocker at crossing of Grand Trunk Railway by the Canadian Northern Ontario Railway.

April 16.—Inspecting trestle on Canadian Northern Ontario Railway at the Ottawa river at Hawkesbury, Ont.

April 17.—Inspection Atlantic, Quebec and Western Railway *re* location for a siding at Shigawaga.

1 GEORGE V., A. 1911

April 20.—Inspection of drainage on property of George Elliott, Woodbridge, Ont., on the line of the Canadian Pacific Railway.

April 23.—Inspection Quebec, Montreal and Southern Railway, town of St. Lambert, *re* highway crossings.

April 27.—Inspection grade revisions on the line of Canadian Pacific Railway near Aroostock junction and near Grand Falls, N.B.

April 28.—Inspection of diversion of the Canadian Pacific Railway between mileage 33 and mileage 34.5 at Grand River, N.B.

April 28.—Inspection of crossing of the Grand Trunk Railway by the Canadian Pacific Railway at Harriston, Ont.

April 28.—Inspection of Lancaster street crossing of the Grand Trunk Railway at Berlin, Ont.

April 29.—Inspection in connection with Toronto viaduct.

April 29.—Inspection of installation of electric bell at wharf crossing of Canadian Pacific Railway at Pembroke, Ont.

May 6.—Inspection of drainage of Edgar Rea, of Zephyr, Ont., on the line of the Canadian Northern Ontario Railway.

May 7.—Inspection of drainage of D. J. Mitchel's, lot 29, township of McDougall, on the line of the Canadian Northern Ontario Railway.

May 11.—Inspection highway crossing on the Canadian Pacific Railway at Gainsboro avenue, Eldonwood Park, township of Nepean, Ont.

May 12.—Inspection of St. George branch of the Grand Valley Railway, a distance of about six miles.

May 13.—Inspection of the Grand Trunk Railway from Allandale to Penetang, a distance of 39 miles.

May 18.—Inspection of interlocking plant at Oak Point crossing.

May 18.—Inspection Quebec, Montreal and Southern Railway, Pierresville, Que., as to road diversion on Indian reserve.

May 18.—Inspection Quebec, Montreal and Southern Railway bridge at Pierresville, P.Q.

May 18.—Inspection of interlocking plant at Ontario street crossing of the Canadian Northern Ontario Railway, Montreal, P.Q.

May 20.—Inspection of drainage of H. Frenette, Portneuf, P.Q., on the line of the Canadian Pacific Railway.

May 20.—Inspection of highway bridge at Jeune street, Three Rivers, over the tracks of the Canadian Pacific Railway and the St. Maurice Valley Railway.

May 26.—File 5,577, Case 3,629, inspection for opening for traffic, Grand Trunk Pacific Railway, from mileage 3.0 at the junction of the Canadian Northern Railway near Pembina avenue crossing, Winnipeg, to mileage 54.5, Portage la Prairie, distance of 51.3 miles.

May 26.—Inspection of interlocking appliances at Lachine canal drawbridge, P.Q., on the line of the Canadian Pacific Railway.

May 26.—Inspection of Georgian Bay and Seaboard Railway for opening for traffic.

May 27.—Inspection of connection between the Niagara, St. Catharines and Toronto Railway and the Toronto, Hamilton and Buffalo Railway at Welland, Ont.

May 27.—Inspection of highway crossing between concessions 6 and 7, township of Tay, on the line of the Georgian Bay and Seaboard Railway.

May 27.—Inspection of location of Orford Mountain Railway from Windsor Mills to southeasterly limit of parish of St. Francois Xavier de Brompton, P.Q.

May 28.—Inspection of St. Catharine street bridge, Montreal, P.Q.

June 1.—Inspection Quebec, Montreal and Southern Railway between Pierresville and Fortierville, P.Q.

SESSIONAL PAPER No. 20c

June 2.—Inspection Canadian Northern Ontario Railway for opening for traffic from Hawkesbury to South Nation river.

June 2.—Inspection Canadian Northern Ontario Railway McGill street crossing, Hawkesbury, Ont.

June 2.—File 9581, Inspection of a proposed location of a foot-crossing at Canmore Junction, Alta., in connection with complaint of James Carroll.

June 2.—Inspection of Canadian Pacific Railway bridges (Laggan section) between Calgary and Laggan.

June 3.—Inspection Canadian Northern Quebec Railway through property of Wilfrid Gauvin, a couple of miles from Pointe aux Trembles, P.Q.

June 3.—Inspection highway crossing on Canadian Northern Quebec Railway at Les Ecureilles, Que.

June 5.—Inspection of Canadian Pacific Railway bridges on the Smith's Falls section for opening for traffic.

June 7.—Inspection highway crossing of Grand Trunk Railway at Bronson avenue, Ottawa, Ont.

June 7.—Inspection crossing of Grand Trunk Railway for Thomas Wilson in township of Gloucester, Ont.

June 7.—File 9423, case 4527, File 9431, case 4539, and File 9432, case 4540, city of Vernon sewer pipe crossing, Canadian Pacific Railway.

June 8.—Inspection station buildings on Garneau-Quebec Division of the Canadian Northern Quebec Railway.

June 8.—Inspection of Georgian Bay and Seaboard Railway for opening for traffic from Coldwater to Maple Island, a distance of about thirteen miles.

June 8.—Inspection of site of proposed bridge over Maison creek on the line of the Canadian Pacific Railway, township of Rochester, Ont.

June 10.—Inspection of drainage on the right-of-way of the Grand Trunk Railway, in Preston, Ont., on property of Mr. Winterholt.

June 10.—Inspection of crossing of Wellington street, Hamilton, Ont., by main line of Grand Trunk Railway.

June 10.—Inspection station buildings on Canadian Northern Ontario Railway.

June 11.—Inspection Lake Shore Road subway on line of Grand Trunk Railway about one mile west of Port Hope, Ont.

June 11.—Inspection of street crossing on the Grand Trunk Railway in the town of St. Henri, Que.

June 12.—Inspection of Iberville street, Montreal, Que., on the line of the Grand Trunk Railway.

June 14.—Inspection of interlocking plant near Emerson, where the Canadian Northern Railway, Ridgeville section, crosses the Canadian Pacific Railway, Emerson branch.

June 15 and 23.—File 10354, Inspection of location of several proposed lines in connection with the entry of the National Transcontinental Railway into Winnipeg, also crossing the lines of the Canadian Pacific Railway and Canadian Northern Railway.

June 16.—Inspection Canadian Northern Ontario Railway bridge over Vermilion river. Mileage 26.66 from Sudbury Junction, Ont.

June 16.—Inspection Canadian Pacific Railway at Sudbury *re* fencing along right-of-way opposite Mr. DuCalland's farm in township of McKim. Also question of farm crossing for Mr. DuCalland.

June 16.—Inspection of highway crossing at Ballantyne's station, mileage 163.4, on the line of the Grand Trunk Railway.

June 17.—Inspection of bridges at mileage 110.3 and 110.6, London section of the Canadian Pacific Railway, and proposed diversion of the Thames river.

1 GEORGE V., A. 1911

June 17.—Inspection of subway at Little Bridge street, Almonte, Ont., on the line of the Canadian Pacific Railway.

June 17.—Inspection of interlocking on the Essex Terminal Railway at Sandwich, Ont.

June 18.—Inspection of opening for traffic on Canadian Pacific Railway, second track of double track, Ignace section, from mileage 115.0 to mileage 119.8, a distance of 4.6 miles, and from mile 120.0 to mile 127.8, a distance of 7.8 miles.

June 19.—Inspection of Canadian Pacific Railway second track of the double track, Kenora section, from mileage 13.8 to 16.0, a distance of 2.2 miles.

June 23.—File 10131, inspection of the place where the city of Winnipeg makes application to cross the tracks of the Oak Point branch of the Canadian Northern Railway by a level highway crossing at Godfrey street, Winnipeg.

June 25.—Inspection of site of station on the Grand Trunk Railway at Corinth, Ont.

June 26.—Inspection of Georgian Bay and Seaboard Railway and Canadian Northern Ontario Railway entrance into Orillia, Ont.

June 26.—File 9844, inspection in the Winnipeg yards of the Thomas and Day Patent Adjustment of grain doors.

June 29.—Inspection of site of bridge over Peace river on the line of the Canadian Pacific Railway, Windsor section.

June 29.—Inspection of extension of Edna street across tracks of the Père Marquette Railroad, town of Walkerville, Ont.

June 30.—Inspection of road diversion on the Toronto, Hamilton and Buffalo Railway, about three miles east of the city of Brantford, near Cainsville, Ont.

June 30.—Inspection Lee Mountain road crossing of the Toronto, Hamilton and Buffalo Railway at Hamilton, Ont.

July 2.—Inspection of crossing of Bay of Quinté Railway and the Kingston and Pembroke Railway at Harrowsmith, Ont.

July 2.—Inspection of diamond between Canadian Pacific Railway and Grand Trunk Pacific Railway, Farnham section.

July 5.—Inspection highway crossings on the Canadian Northern Quebec Railway at Lorette and St. Foy, Que.

July 7.—Inspection of Canadian Northern Ontario Railway from the South Nation river to Rockland, a distance of twelve miles, for opening for traffic.

July 7.—Inspection St. Maurice Valley Railway from Three Rivers to Joliette, Que.

July 9.—Inspection of Grand Trunk Railway branch line to premises of the Brunswicke Balke & Collender Company in the city of Toronto, Ont.

July 13.—Inspection of Atlantic, Quebec and Western Railway bridge over the Malbaie river at mileage 76.9 east of New Carlisle, Que.

July 13.—Inspection of bridges on the line of the Dominion Atlantic Railway between Digby and Annapolis, N.S.

July 14.—Inspection Ottawa and New York Railway bridges at Cornwall, Ont.

July 14.—Inspection of Atlantic and Lake Superior Railway as to general conditions.

July 15.—Inspection bridges on B. W. and N. W. branch of the Canadian Pacific Railway.

July 15.—File 5686. Inspection of the overhead foot-bridge over the Canadian Pacific Railway tracks at Brown street, West Fort William.

July 20.—Inspection of Canadian Northern Ontario Railway bridge over Coulters Narrows.

July 21.—Inspection of drainage of E. B. Freeman at Burlington Junction on the Grand Trunk Railway.

SESSIONAL PAPER No. 20c

July 21.—Inspection location of Grand Valley Railway in city of Brantford, Colborne Street, and Market Street intersection.

July 23.—(File 8891. Case 4203.) Inspection of the overhead foot-bridge at Julius Street, the overhead bridge at Matheson Street, the switch stands at Kenora and the overhead barrel conveyor at Keewatin, Canadian Pacific Railway.

July 23.—Inspection of the Canadian Pacific Railway second track of the double track, Ignace section, from mileage 119.8 to mileage 120.0, a distance of 0.2 miles.

July 26.—Inspection farm crossing on lot 2, con. 7, township of Cavan, east of Manverse, on the Canadian Pacific Railway.

July 26.—Inspection of the Canadian Pacific Railway double track diversion, Kenora section, from Busteed, mileage 16.0, to Deception, mileage 18.8, a distance of 2.8 miles.

July 27.—Inspection of Quebec, Montreal and Southern Counties Railway.

July 28.—Inspection Canadian Northern Quebec Railway for opening for traffic from its connection with the Quebec and Lake St. John Railway at Quebec to Garneau Junction, a distance of 78.76 miles.

July 28.—Inspection of highway crossing between lots 317 and 318 in parish of St. Prosper, county of Champlain, on the line of the Canadian Northern Quebec Railway at mileage 60.11, from Quebec bridge on the Canadian Northern Quebec Railway.

July 28.—Inspection of highway crossing between lot 624 and lot 27-12 in the parish of St. Timothée, county of Champlain, at mileage 77.11 from Quebec bridge on the Canadian Northern Quebec Railway.

July 28.—Inspection of highway crossing between lot 623 and 624, parish of St. Timothée, county of Champlain, on the line of the Canadian Northern Quebec Railway at mileage 76.15 from Quebec Bridge.

July 28.—Inspection highway crossing at lots 9 and 10 in the parish of St. Séverin, county of Champlain, on the line of the Canadian Northern Quebec Railway at mileage 73.77 from Quebec Bridge.

July 28.—Inspection highway crossing on northeast side of lot 130E in the parish of St. Séverin, county of Champlain, on the line of the Canadian Northern Quebec Railway at mileage 73.51 from Quebec Bridge.

July 28.—Inspection of highway crossing between lots 213 and 147, parish of St. Séverin, on the line of the Canadian Northern Quebec Railway at mileage 71.44.

July 28.—Inspection of highway crossing between lots 345 and 344, 344a and 346, in the parish of St. Prosper, county of Champlain, on the line of the Canadian Northern Quebec Railway at mileage 62.23 from the Quebec bridge.

July 28.—Inspection of highway crossing between lot 335 and 336 in the parish of St. Prosper, county of Champlain, on the line of the Canadian Northern Quebec Railway, mileage 61 from the Quebec bridge.

July 28.—Inspection of site of Canadian Pacific Railway station at Bissett, Ont.

July 28.—(File 10505.) Inspection of proposed location of a new station at Grassy Lake, Alta., on the Canadian Pacific Railway (Lethbridge section).

July 29.—(File 2424. Case 4026.) Inspection of the fencing, Canadian Northern Railway, Brandon-Regina line.

July 29.—Inspection of highway crossing one mile west of Belair, Que., on the line of the Canadian Pacific Railway.

July 29.—Inspection Grand Trunk Railway at crossing at Wentworth Street, Hamilton, Ont.

July 30.—Inspection of highway crossing between lots 429 and 430, in the parish of St. Prosper, county of Champlain, on the line of the Canadian Northern Quebec Railway, at mileage 63.4 from Quebec bridge.

1 GEORGE V., A. 1911

August 13.—Inspection for opening for freight traffic on the Superior and Western Ontario Railway from the junction of the Grand Trunk Pacific Superior Branch, near mileage 154, to the head of Sturgeon lake at O'Brien, a distance of 7 miles.

August 19.—(File 7813.) Inspection of the proposed location of the union station at Maryfield, Sask., situated between the Canadian Pacific Railway and the Canadian Northern Railway.

August 19.—Inspection proposed highway crossings on the line of the Canadian Pacific Railway in the municipality of Whitton, Que.

August 28.—Inspection highway crossings on the Grand Trunk Railway at St. Hyacinthe, Que.

August 30.—Inspection highway crossings on the Canadian Northern Quebec Railway near Quebec, Que.

August 30.—Inspection of interlocking plant at St. Hyacinthe, Que.

August 31.—Inspection highway crossings on the National Transcontinental Railway in the counties of Lévis, Dorchester and Montmagny, province of Quebec.

September 4.—Inspection of 'V' of Quebec Railway Light and Power Company at Joachim, Que.

September 6.—Inspection Canadian Pacific Railway and Canadian Northern Quebec Railway at Portneuf, Que.

September 7.—Inspection highway crossings on the Canadian Northern Quebec Railway in the parish of St. Théophile, Que.

September 8.—Inspection drainage of H. Frenette, Portneuf, Que., on the line of the Canadian Pacific Railway.

September 8.—Inspection Canadian Northern Quebec Railway bridge over the St. Maurice river at Grand Mére, Que.

September 10.—Inspection John Forman mill site at Jacques Cartier river, on the line of the Canadian Northern Quebec Railway.

September 10.—Inspection of Nominig Branch of the Canadian Pacific Railway for opening for traffic.

September 14.—Inspection for opening for traffic of the Garneau-Quebec Division of the Canadian Northern Quebec Railway.

September 16.—Inspection of culverts on the line of the Canadian Northern Quebec Railway between Harvey Junction and St. Tite, Que.

September 16.—Inspection farm crossing of Fabien Leduc, St. Casimir, Que., on the line of the Canadian Northern Quebec Railway.

September 16.—Inspection Canadian Northern Quebec Railway as to fencing right-of-way in the parish of St. Tite, Que.

September 16.—Inspection farm crossing of I. Boisclair, on the Montfort Branch of the Canadian Northern Quebec Railway, mileage 7.8.

September 16.—Inspection farm crossing of Madame Plouffe on the St. Jerome-St. Sauveur Branch of the Canadian Northern Quebec Railway, mile 14.7.

September 16.—Inspection of revised location of the Tilsonburg, Lake Erie and Pacific Railway in the town of Ingersoll, Ont.

September 17.—Inspection of interlocking plant at crossing of Grand Trunk Railway by the Niagara, St. Catharines and Toronto Railway, between Clifton Junction and Stamford, Ont.

September 17.—Inspection highway crossings on the line of the Canadian Northern Quebec Railway, in the county of Terrebonne, Que., mileage 0 to 15.

September 17.—Inspection of station accommodation at Garneau Junction, Herouville and St. Tite, on the Canadian Northern Railway.

September 17.—Inspection farm crossing, M. Francoeur on the Montfort Branch of the Canadian Northern Quebec Railway. Mileage, 6.5.

SESSIONAL PAPER No. 20c

September 18.—Inspection and report file No. 10768, application of International Transcontinental Railway to cross Winnipeg Transfer Railway in the City of Winnipeg, between Lombard and Water streets.

September 20.—Inspection of the interlocking plant where the Grand Trunk Pacific crosses the Edmonton and Slave Lake Railway. (Canadian Northern Railway situated four miles west of Edmonton.

September 21.—File 5678, case 3421. Inspection of bridges and abutments on the Canadian Pacific Railway. Central Division, Broadview section.

September 22.—Inspection of highway crossings in the Parish of Beauport on the location of the Canadian Northern Quebec Railway between Hedleyville Junction, near Quebec and the Montmorency River.

September 22.—Inspection of street crossing known as Main street, at the south end of the Canadian Pacific Railway yard at Farnham, P.Q.

September 23.—Inspection of Central Vermont Railway between St. Lambert and Farnham, P.Q.

September 24.—File 3437, case 133 and case 3405. Inspection of bridges and abutments on the Canadian Pacific Railway Division, Shuswap section, between Revelstoke and Kamloops.

September 27.—Inspection for opening for traffic on the Canadian Pacific Railway, Cascade Section, Port Moody, diversion, between mileage 115 and mileage 117 on the old line, the distance on the new diversion, 1.98 miles.

September 27.—Inspection of interlocking plant at crossing of the Canadian Pacific Railway by the Grand Trunk Railway at Brampton, Ontario.

September 28.—Inspection of new second track of the Canadian Pacific Railway from St. Lazare to Dalhousie Mills, Ontario, a distance of 18 miles, for opening for traffic.

September 28.—Inspection of Péré Marquette Railway as to blocking of undercrossing of P. S. Seager, Bickford, Ontario, on north half of lot 6, Township of Moore, County of Lambton, Ontario.

September 28.—Inspection of farm crossing on Madame De Beaujeau's property in the County of Vaudreuil, on the line of the Canadian Pacific Railway.

September 29.—Inspection of Canadian Pacific Railway as to station at Streetsville, Ont.

September 29.—Inspection of location of a transfer track to connect the Canadian Northern Railway with the Manitoulin and North Shore Railway.

September 30.—Inspection of Church Street crossing of the Grand Trunk Railway in the Town of Mimico, Ont.

September 30.—Inspection as to excessive shunting by the Grand Trunk Railway in town of Allandale, Ont.

September 30.—Inspection of highway crossings on the line of the Canadian Pacific Railway, Toronto, Sudbury line between Byng inlet and Parry Sound, Ont.

September 30.—Inspection of highway crossings in the township of Foley, on the Toronto-Sudbury branch of the Canadian Pacific Railway.

October 4.—Inspection for opening for traffic on the Grand Trunk Pacific Railway from Battle River, mileage 675, to Edmonton, mileage 793.7, a distance of 118.7 miles.

October 5.—Inspection for opening for traffic the Goose Lake branch of the Canadian Northern Railway from Saskatoon to Rosetown, a distance of 71.8 miles.

October 6.—File 7699, case 3447. Inspection of piers and abutments of the Canadian Pacific Railway, Central Division, Regina, Saskatoon and Saskatchewan, now operated by the Canadian Northern Railway, known as the Prince Albert branch.

October 7.—File 10952. Inspection of the flooded lands near the town of Humboldt, Saskatchewan, on the line of the Canadian Northern Railway.

1 GEORGE V., A. 1911

October 7.—Inspection of the crossing of the Town Line Road in the village of Iona, by the Michigan Central and Péré Marquette Railroads.

October 7.—Inspection of street crossings in the village of Shedden, on the Michigan Central and the Péré Marquette Railroads.

October 7.—Inspection of transfer track of the Canadian Northern Ontario Railway, in the vicinity of Ottawa, Ont.

October 8.—Inspection of interlocking plant at crossing of the Grand Trunk Railway by the Quebec, Montreal and Southern Railway at St. Hyacinthe, P.Q.

October 9.—Inspection of subway at Almonte, on the line of the Canadian Pacific Railway.

October 9.—Inspection of Automatic Signalling Device as a block signal.

October 9.—Inspection for opening for traffic of the Thunderhill Branch of the Canadian Northern Railway from Benito, mileage 18.8 to Polly, mileage 35.6, a distance of 16.8 miles.

October 11.—Inspection of new second tracks of the Canadian Pacific Railway for opening for traffic from St. Lazare to Dalhousie Mills, Ontario; mileage, 23.7 to 41.6, and from Avonmore to Finch, Ontario, mileage 67.8 to 74.3.

October 11.—Inspection of new second track of the Canadian Pacific Railway from Dalhousie Mills; mileage, 41.6 to 44.9.

October 11.—Inspection of White Automatic Railway Signal Device installed at Bronson Avenue, Ottawa, on the Grand Trunk Railway.

October 16.—Inspection of the station yards and layout in the village of Bladworth, Saskatchewan, on the Canadian Northern Railway.

October 17.—File 7697, case 3445, inspection of piers and abutments at mileage 47, on the Canadian Pacific Railway, Central Division, Prince Albert Section, now operated by the Canadian Northern Railway, and known as the Regina-Prince Albert Branch.

October 20.—Inspection of Huskinson street, Guelph, Ontario, as to subway under the Grand Trunk Railway.

October 20.—*Re* inspection of the interlocking plant at Oak Point Junction, where the Grand Trunk Pacific Railway crosses the Canadian Pacific Railway and Canadian Northern Railway.

October 20.—File 6105, case 2611, inspection of the interlocking plant at the crossing of the Grand Trunk Pacific Railway with the Goose Lake Branch of the Canadian Northern Railway west of Saskatoon, Saskatchewan.

October 20.—Inspection of crossing of Grand Trunk Railway by the Galt and Hespeler Railway in the village of Hespeler, Ont.

October 21.—File 3413, case 3414, inspection of bridges, piers and abutments on the Canadian Pacific Railway, western Division, Edmonton Section.

October 21.—Inspection of culvert under the lines of the Kingston and Pembroke Railway and the Bay of Quinte Railway, just north of Harrowsmith Station, Ont.

October 22.—File 5460.1, inspection of the bridge over the Old Man River (viaduct) and the Lethbridge (viaduct) Canadian Pacific Railway, Western Division.

October 22.—Inspection for opening for traffic on the Canadian Pacific Railway from Macleod to Lethbridge for a distance of 31.7 miles.

October 22.—File 3532, case 3415. Inspection of the two piers and one 150 foot dock lattice girder over the Battle river on the Canadian Pacific Railway western division, Western Section.

October 23.—File 7703, case 3451. Inspection of the concrete abutments and piers at mileage 104.17 on the Canadian Pacific Railway Macleod section over the Old Man river.

SESSIONAL PAPER No. 20c

October 26.—Inspection of transfer track connecting the Michigan Central Road and the Grand Trunk Railway on Bathurst street near Wellington street in the city of London, Ontario.

October 27.—File 9437.99. Inspection of the North Road crossing on the V.V. & E. Railway in connection with the dangerous condition of crossings between New Westminster and the towns of Port Moody and Barnet.

October 28.—Inspection of highway crossings in township of Medonte on the line of the Toronto and Sudbury Branch of the Canadian Pacific Railway.

October 29.—Inspection of highway crossings on the Walkerton Branch of the Canadian Pacific Railway at mileage 1.86, 1.90, 4.33 and 4.43. in the township of Artemesa, Ontario.

October 29.—Inspection Montreal and Southern Counties Railway for opening for traffic from its terminus at Montreal to St. Denis street in the town of St. Lambert, P.Q.

October 30.—Inspection Rawdon Branch of Canadian Northern Quebec Railway from St. Jacques to Dugas, P.Q., for opening for traffic.

October 30.—Inspection highway crossings on Rawdon Branch of Canadian Northern Quebec Railway at mileage 5.27 mileage .95 and mileage 7.58.

November 4.—Inspection of Main street crossing of the Grand Trunk Railway at Hawkesbury, Ontario.

November 6.—File 6431, case 3411. Inspection of the concrete piers and abutments on the Canadian Pacific Railway western division, Cranbrook section.

November 9.—Inspection of highway crossings on the line of the Grand Trunk Railway in the town of St. Johns, P.Q.

November 10.—Inspection of interlocking appliances at the crossing of the Grand Trunk Railway by the Peterborough Radial Railway in the city of Peterborough, Ontario.

November 10.—Inspection of farm crossing of M. Mullin on the Canada Atlantic Division of the Grand Trunk Railway.

November 10.—Inspection as to fencing on the Grand Trunk Railway in the municipality of South Algoma, Ont.

November 13.—File 7700, case 3448. Inspection of the bridge and abutments over the government drainage ditch on the Canadian Pacific Railway Central division, Lariviere section.

November 13.—Inspection of the extension of the Canadian Pacific Railway Mowbray Branch from Mowbray, mileage 65.9 to Wyndgate mileage 32.4 a distance of 6.5 miles.

November 14.—Inspection of Durham Road by the Canadian Pacific Railway in the town of Walkerton, Ont.

November 16.—Inspection electric bell at highway crossing of Canadian Pacific Railway, township of Durham, P. Q.

November 16.—Inspection for opening for traffic of bridges on the St. Guillaume Branch of the Canadian Pacific Railway.

November 17.—Inspection for opening for traffic of bridges on the Newport section of the Canadian Pacific Railway.

November 17.—Inspection of Grand Trunk Railway branch line on the easterly side of the town of Port Hope, Ont.

November 17.—Inspection of Canadian Northern Ontario Railway, crossing of the Grand Trunk Railway, Whitby branch near Brooklin, Ont.

November 17.—Inspection of A. Clark's farm crossing and first highway crossing west of Mountain station, Ont., on the line of the Canadian Pacific Railway.

November 18.—Inspection of the Canadian Pacific Railway second track, Fort William section from mileage 59.4 to mileage 59.6.

1 GEORGE V., A. 1911

November 18.—Inspection of subway under the Grand Trunk Railway at Jacques Cartier junction, P.Q.

November 18.—Inspection of Canadian Northern Quebec Railway highway diversion village of Dombourg, mile 24.97 west of Quebec bridge.

November 20.—Inspection of the proposed Lincoln avenue crossing over the tracks of the Canadian Northern Railway, Oak Point Branch, just west of Winnipeg city limits.

November 23.—File 11865, inspection of the fences on the right of way over Grand Trunk Pacific Railway, on section 2, township 12, range 11, west of the 1st.

November 23.—Inspection of the right of way of the Temiscouata Railway, in the village of Cabano, P.Q.

November 23.—Inspection of interlocking appliances at crossing of the Temiscouata Railway by the National Transcontinental Railway 12.2 miles west of Edmundston, N.B.

November 24.—Inspection of Iberville street subway, Montreal, P.Q.

November 24.—Inspection of highway crossing leading to Ferry at Indian Point, Parish of Andover, Ont.

November 25.—File 1124.2.—Inspection of the location of the Pembia highway crossing over the tracks of the Canadian Northern Railway in the city of Winnipeg.

November 28.—Inspection Atlantic, Quebec and Western Railway, as to station buildings and general layout of L'Anse aux Gascons Station, mileage 26.5.

November 28.—Inspection highway crossings on the Atlantic Quebec and Western Railway in the municipality of St. Adelaide de Pabos, P.Q.

November 28.—Inspection station buildings and general layout at Newport, P.Q., on the Atlantic, Quebec and Western Railway.

November 29.—File 7,705, case 3,453, inspection of Canadian Pacific Railway bridges, Pacific division, Columbia and Kootenay section.

November 30.—Inspection of revision of the line of the Toronto Suburban Railway from Davenport station to Jane street, Toronto, Ont.

November 30.—Inspection of Canadian Northern Ontario Railway for opening for traffic from Rockland to Hurdman's road near Gladstone avenue, Ottawa, Ont.

November 30.—Inspection of crossing of the Montreal road by the Canadian Northern Ontario Railway at mileage 29, township of Nepean, Ont.

December 1.—Inspection for opening for traffic on the Canadian Pacific Railway, Weyburn to Stoughton, a distance of 36.7 miles.

December 2.—Inspection new second track of Canadian Pacific Railway from Vaudreuil to St. Lazare and from mileage 44.9 just west of Dalhousie Mills to mileage 48.6, and from mileage 48.6 to Avonmore for opening for traffic.

December 3.—Inspection of interlocking plant of the London Street Railway crossing of the Canadian Pacific Railway at London, Ont.

December 3.—Inspection of crossing of Town line road between townships of Sandwich East and Sandwich West, Ont.

December 3.—Inspection of crossing of Pere Marquette Railroad with Canadian Pacific Railway at Walkerville Junction, Ont.

December 4.—Inspection of interlocking plant in connection with east end of the Michigan Central Railroad at Windsor, Ont.

December 5.—Inspection of Garth street bridge, Hamilton, Ont.

December 10.—Inspection of the highway crossing at mileage 18.6 on the Brockville branch of the Canadian Pacific Railway.

December 13.—File 80.17 inspection of the interlocking plant where the Canadian Northern Railway main line crosses the Canadian Pacific Railway Minnedosa branch at Gladstone, Man.

December 13.—Inspection for opening for traffic on the Canadian Pacific Railway Wynward extension for Wynward mileage 88.3 to Lanigan, mileage 125.3, a distance of 37.0 miles.

SESSIONAL PAPER No. 20c

December 14.—Inspection of crossing of George street, Smith's Falls, by Canadian Pacific Railway.

December 15.—Inspection for opening for traffic on the Canadian Pacific Railway west of Saskatoon, from Wilkie, Sask., mileage 430.39, to Hardisty, Alta., mileage 561.63, a distance of 131.24 miles.

December 15.—Inspection of Brock avenue where it crosses the Northern division of the Grand Trunk Railway, the Sarnia tunnel division of the Grand Trunk, and the main line of the Canadian Pacific Railway in the city of Toronto, Ont.

December 15.—Inspection of King street crossing of the Grand Trunk Railway in the town of Berlin, Ont.

December 16.—Inspection of crossing of Dundas street by the Canadian Pacific Railway in the town of Berlin, Ont.

December 16.—Inspection of crossings of Dundas street by the Grand Trunk Railway in the town of Cooksville, Ont.

December 16.—Inspection of crossing of Queen street by the Grand Trunk Railway in the town of Palmerston, Ont.

December 16.—Inspection of highway crossing of Canadian Pacific Railway at Atlantic avenue, town of St. Louis de Mile End, P.Q.

December 16.—Inspection of highway crossing over the Grand Trunk Railway and the Montreal Park and Island Railway at Rockfield, P.Q.

December 16.—Inspection of highway crossing of the Canadian Pacific Railway at Cote St. Luc road, Notre Dame du Grace, P.Q.

December 17.—Inspection for opening for traffic Canadian Pacific Railway, Kipp branch, from Kipp, Alta., to mileage 28.2.

December 17.—Inspection highway crossings over the Grand Trunk Railway at St. Hyacinthe, P.Q.

December 17.—Inspection of highway crossing of Canadian Pacific Railway at Merry street, Magog, P.Q.

December 18.—Inspection highway crossing at 18th street, Lachine, over the Grand Trunk Railway.

December 18.—Inspection for opening for traffic, Canadian Pacific Railway Weyburn line west for 26 miles.

December 20.—Inspection for the opening for traffic on the Canadian Pacific Railway Virden-McAuley branch, a distance of 14 miles.

December 20.—Inspection of Tilsonburg highway crossing just west of Tilsonburg station on the line of the Michigan Central Railway.

December 20.—Inspection of the crossing of Peterborough street by the Canadian Pacific Railway in the town of Norwood, Ont.

December 23.—Inspection Canadian Northern Ontario Railway for opening for traffic from Sellwood Junction, at mileage 23.4, to Gowganda Junction, mileage 55, from Sudbury Junction.

December 27.—File 6,695, inspection of the station yard and layout on the Canadian Northern Railway main line at Barwick, Ont.

December 28.—Inspection of crossing of William street, Brockville, Ont., by the Grand Trunk Railway and Canadian Pacific Railway.

December 28.—Inspection of highway crossings on the line of the Canadian Northern Quebec Railway in the town of Maisonneuve, P.Q.

December 31.—Inspection of the crossing of Ontario street by the Grand Trunk Railway in the city of Kingston, Ont.

January 3.—Inspection highway crossings on the Canadian Pacific Railway at Three Rivers, P.Q.

January 11.—Inspection of proposed crossing of highway between lot 32, concession B, and lot 2, concession C, township of Scarboro, county of York, by the line of the Canadian Northern Ontario Railway.

1 GEORGE V., A. 1911

January 11.—Inspection of proposed crossing of the side road between lots 24 and 25, concession 1, township of Scarboro, county of York, by the line of the Canadian Northern Ontario Railway.

January 11.—Inspection of crossing of side road between lots 22 and 23, concession 1, township of Scarboro, county of York, by the line of the Canadian Northern Ontario Railway.

January 11.—Inspection of highway crossing between lots 18 and 19, concession 2, township of Scarboro, county of York, on the line of the Canadian Northern Ontario Railway.

January 11.—Inspection of highway crossing at Pharmacy avenue, township of Scarboro, county of York, on the line of the Canadian Northern Ontario Railway.

January 11.—Inspection of crossing of side road between lots 28 and 29, concession C, township of Scarboro by the Canadian Northern Ontario Railway.

January 12.—Inspection of highway crossing immediately east of Charing Cross station on the Michigan Central Railroad.

January 12.—Inspection of first crossing east of Ruscombe, Ont., on the line of the Michigan Central Railroad.

January 12.—Inspection of first highway crossing west of Buxton station on the Michigan Central Railroad.

January 12.—Inspection of the crossing immediately west of Woodslee Station, on the line of the Michigan Central Railroad.

January 12.—Inspection of crossing four miles west of Ridgetown, Ont., on the Michigan Central Railway.

January 12.—Inspection of second crossing east of west Lorne, Ont., on the Michigan Central Railroad.

January 12.—Inspection of crossing one mile east of Taylor, Ont., on the Michigan Central Railroad.

January 12.—Inspection of highway crossing just west of Dufferin Station, on the line of the Michigan Central Railroad.

January 12.—Inspection of second crossing of Attercliffe Station, known as Diltz Road crossing, on the line of the Michigan Central Railroad.

January 12.—Inspection of location of Niagara, St. Catharines and Toronto Railway, from Welland to Port Colborne, Ont.

January 12.—Inspection of street crossings on the Grand Trunk Railway, in the city of London, Ont.

January 12.—Inspection of highway crossing near Pelton, about Mile post 6½ from Detroit, on the Michigan Central Railroad.

January 12.—Inspection of gates installed by the Michigan Central Railroad at the crossing of the highway by the Michigan Central Railroad and Pere Marquette Railroad, in the village of Rodney, Ont.

January 12.—Inspection of gates installed by the Michigan Central Railroad at the crossing of the highway by the Michigan Central Railroad and Pere Marquette Railroad, in the village of Dutton, Ont.

January 12.—Inspection of highway crossing by the line of the Michigan Central Railroad about three miles east of Tilbury, Ont.

January 12.—Inspection of highway crossing on the line of the Michigan Central Railroad about three-quarters of a mile west of Fletcher Station, Ont.

January 12.—Inspection of highway crossing just west of Cumber Station, on the line of the Michigan Central Railroad.

January 12.—Inspection of crossing immediately west of Wyndham Station, on the line of the Michigan Central Railroad.

January 12.—Inspection of second crossing east of Yarmouth Station, on the line of the Michigan Central Railroad.

SESSIONAL PAPER No. 20c

January 12.—Inspection of first crossing east of Welland Station, on the line of the Michigan Central Railroad.

January 12.—Inspection of highway crossing between townships of Tilbury East and township of Raleigh, on the line of the Michigan Central Railroad.

January 12.—Inspection of second crossing west of Essex Station, known as Thomas street, on the line of the Michigan Central Railroad.

January 13.—Inspection of Herbert Dynes farm crossing, on the line of the Hamilton Radial Railway, just east of Burlington, Ont.

January 13.—Inspection of Pembina Street crossing, Winnipeg, as to protection by flagman.

January 14.—Inspection of interlocking plant at Toronto Junction, between the Canadian Pacific Railway and the Grand Trunk Railway.

January 14.—Inspection of highway crossing at Elizabeth Street, Toronto Junction, on the Canadian Pacific Railway.

January 14.—Inspection of Yonge Street crossing of the Canadian Pacific Railway, in the city of Toronto, Ont.

January 15.—Inspection of Richmond Street crossing of the Canadian Pacific Railway, in the city of London, Ont.

January 20.—Inspection of the crossing of Hugh street, in the town of Arnprior, Ont., by the Grand Trunk Railway.

January 20.—Inspection of crossing of Main street by the Grand Trunk Railway, in the village of Carp, Ont.

January 20.—Inspection of Montmorency Branch of the Canadian Northern Quebec Railway, for opening for traffic.

January 21.—Inspection of interlocking plant at St. Polycarpe Junction at the crossing of the Grand Trunk Railway, by the Canadian Pacific Railway.

January 22.—Inspection of wreck at Spanish river, on the line of the Canadian Pacific Railway.

January 23.—Inspection of highway crossing of Canadian Pacific Railway in the city of Hull, P.Q.

January 27.—Inspection of Main Street crossing of the Grand Trunk Railway in Ottawa East, Ont.

January 27.—Inspection of crossing of Grand Trunk Railway on the Canal drive, Ottawa East, Ont.

February 2.—Inspection of interlocker where the double track of the Grand Valley Railway crosses the Grand Trunk on Colborne street, in the city of Brantford, Ont.

February 3.—Inspection of crossing of highway one and a half miles north of Maple, by the single track of the Grand Trunk Railway.

February 3.—Inspection of crossing of Royce Avenue, Toronto, by the track of the Grand Trunk Railway, North Division.

February 3.—Inspection of crossing of the highway between Concessions 1 and 2, township of King, by the Grand Trunk Railway, at mileage 26.64.

February 3.—Inspection of crossing of highway between lots 25 and 26, township of Albion, by the Grand Trunk Railway, mileage 59.

February 3.—Inspection of second highway crossing south of Milton Station, on the single track line of the Grand Trunk Railway.

February 3.—Inspection of crossing of the highway by the Grand Trunk Railway just south of Concord Station, at mileage 14.

February 3.—Inspection of the crossing of Yonge street, 1.15 miles south of Aurora, by the single track of the Grand Trunk Railway, mileage 28.66.

February 3.—Inspection of crossing of highway by the single track of the Grand Trunk Railway about three quarters of a mile south of Beeton Station, Ont.

1 GEORGE V., A. 1911

February 3.—Inspection of crossing of highway between Concessions 4 and 5, township of Tecumseh, by the Grand Trunk Railway, mileage 67.

February 3.—Inspection of highway crossing between Concessions 1 and 2, township of Tecumseh, by the single track of the Grand Trunk Railway.

February 3.—Inspection of first highway crossing south of Bradford Station, on the line of the Grand Trunk Railway, mileage 40.

February 3.—Inspection of first highway crossing north of Newmarket, on the line of the Grand Trunk Railway.

February 4.—Inspection highway crossing on the Grand Trunk Railway at Alexandria, Ont.

February 4.—Inspection of interlocking appliances where the track of the Canadian Pacific Railway crosses the track of the Grand Trunk Railway just east of Drumbo Station, Ont.

February 5.—Inspection of industrial spur of the Canadian Pacific Railway and Canadian Northern Ontario Railway in the town of Parry Sound for opening for traffic.

February 5.—Inspection highway crossing of the Grand Trunk Railway at Avenue Le Grande Ile in Valleyfield, P.Q.

February 5.—Inspection highway crossing of the Grand Trunk Railway at Lacolle Junction, P.Q.

February 6.—Inspection bridges on the Newport section of the Canadian Pacific Railway.

February 7.—Inspection bridges on the Farnham Division of the Canadian Pacific Railway.

February 7.—Inspection of street crossings over the Canadian Pacific Railway, city of Winnipeg and St. Boniface.

February 7.—File 13187. Inspection of Canadian Pacific Railway, Higgins avenue subway bridge, Winnipeg, Man.

February 8.—Inspection bridges on the Drummondville Branch and the Megantic Section of the Canadian Pacific Railway.

February 8.—Inspection highway crossing on the Grand Trunk Railway known as Pearce's Crossing a couple of miles west of Richmond, P.Q.

February 11.—Inspection of highway crossing between lots 2 and 3, con. 4, township of Scarboro, county of York, on the line of the Canadian Northern Ontario Railway.

February 15.—Inspection of Piercy Street crossing of the Grand Trunk Railway $3\frac{1}{2}$ miles north of Fergus, Ont.

February 15.—Inspection of highway crossing over Grand Trunk Railway one and a half miles east of Dorchester, Ont.

February 17.—Inspection of highway crossing on the Grand Trunk Railway at Oakville, Ont.

February 17.—Inspection of highway crossing on the Grand Trunk Railway one mile north of Mount Forest, Ont.

February 17.—Inspection of crossing of highway between cons. 2 and 3, township of Hope, on the line of the Canadian Northern Ontario Railway.

February 17.—Inspection of crossing of highways in township of Hope, Ont., by the Canadian Northern Ontario Railway.

February 17.—Inspection of highway crossing between lots 8 and 9, con. 3, township of Hope, Ont., on the line of the Canadian Northern Ontario Railway.

February 17.—Inspection of highway crossing between cons. 3 and 4, township of Hope, Ont., on the line of the Canadian Northern Ontario Railway.

February 17.—Inspection of highway crossing between lots 12 and 13, township of Hope, on the line of the Canadian Northern Ontario Railway.

SESSIONAL PAPER No. 20c

February 18.—Inspection for opening for traffic of the Canadian Northern Railway branch line from Dalmeny to Laird, a distance of 28 miles.

February 18.—File 3418.6. Inspection of Canadian Pacific Railway bridge at mileage 94.0 over the Red Deer river, Edmonton Section.

February 19.—Inspection crossing of highway between lots 10 and 11, con. 3, township of Hope, on the line of Canadian Pacific Railway.

February 19.—Inspection of highway crossing on lot 3, con. 2, township of Hope, on the line of the Canadian Northern Ontario Railway.

February 19.—Inspection of crossing of Eramosa Road and Allen Bridge Road, by the Canadian Pacific Railway at Guelph, Ont.

February 19.—Inspection of highway crossing on the line of the Grand Trunk Railway 2½ miles west of Acton West, Ont.

February 19.—File 7704.1. Inspection of subway at First street west and subway at Second street east, Calgary.

February 19.—File 5135.3. Inspection of Canadian Pacific Railway bridges at mileage 8.2 and mileage 38.3, McLeod section.

February 19.—Inspection for opening for traffic of the Canadian Pacific Railway branch line, north from Langdon on the main line to Acme, a distance of 38.5 miles.

February 20.—File 3422.11. Inspection of Canadian Pacific Railway bridges at mileage 1.7 and 93.9 Shuswap Section.

February 21.—File 7706.5. Inspection of Canadian Pacific Railway bridge at mileage 31.2 Cascade Section.

February 22.—File 6780.1. Inspection of Canadian Pacific Railway bridge over Ferry Slip, city of Vancouver, B.C.

February 22.—File 12822. Inspection of V.V. & E. Ry., where accident occurred between Burnaby and Sapperton at Kilby Creek.

February 22.—File 12377. Inspection of the farm crossing on the property of Eric Anderson, on the V.V. & E. Ry. (G.N.R.) west of Cloverdale, B.C.

February 22.—Inspection of the interlocking plant where the V.V. & E. Ry. crosses the C.P.R. at Fraser Mills, near New Westminster, B.C.

February 22.—Inspection of crossing of Danforth Road by single track of the Grand Trunk Railway.

February 22.—Inspection of the street crossing at Columbia avenue and the crossing leading to the North Vancouver Ferry, Vancouver, as to protection.

February 22.—Inspection of highway crossing 2½ miles east of Stouffville, Ont., by the line of the Grand Trunk Railway.

February 22.—Inspection of Leeds and Grenville Independent Telephone Company's line where it crosses the Canadian Pacific Railway at Spencerville, Ont.

February 22.—Inspection of highway crossing immediately west of Grass Hill Station on the line of the Grand Trunk Railway.

February 22.—Inspection of second crossing north of Port Perry on the line of the Grand Trunk Railway.

February 22.—Inspection of highway crossing immediately west of Mariposa Station on the line of the Grand Trunk Railway.

February 22.—Inspection of highway crossing immediately west of Uxbridge Station on the line of the Grand Trunk Railway.

February 22.—Inspection of first crossing west of Manilla Junction on the line of the Grand Trunk Railway.

February 22.—Inspection of highway crossing between concessions 3 and 4, township of Ops, on the line of the Grand Trunk Railway, two miles west of Lindsay, Ont.

February 22.—Inspection of highway crossing one quarter mile east of Brooklin, on the line of the Grand Trunk Railway.

1 GEORGE V., A. 1911

February 22.—Inspection of highway crossings $2\frac{1}{2}$ miles east of Stouffville on the line of the Grand Trunk Railway.

February 23.—Inspection of highway crossing one mile south of Craighleith on the Grand Trunk Railway.

February 23.—Inspection of highway crossing one mile south of Caldwell, Ont., on the Grand Trunk Railway.

February 23.—Inspection of crossing immediately south of Bracebridge Station, Ont., on the line of the Grand Trunk Railway.

February 23.—Inspection of highway crossing one and a half miles south of Huntsville on the line of the Grand Trunk Railway, mileage 144.75.

February 23.—Inspection of highway crossing immediately north of Goodwood Station, Ont.

February 23.—Inspection of highway crossing immediately north of Uttersson Station, on the line of the Grand Trunk Railway.

February 23.—Inspection of highway crossing immediately north of Sundridge Station, on the line of the Grand Trunk Railway.

February 23.—Inspection of highway crossing immediately south of Nipissing Junction Station, on the line of the Grand Trunk Railway.

February 23.—Inspection of highway crossing just east of Tanners Station, on the line of the Grand Trunk Railway.

February 23.—Inspection of crossing of Grand Trunk Railway, on lot 29, con. 4, township of Ferris, Ont.

February 24.—Inspection of crossing of highway by the Canadian Pacific Railway, on lot 8, con. 11, township of Ferris, Ont.

February 24.—File 6407.7. Inspection of Canadian Pacific Railway bridges at mileages 8.4, 9.6, 73.4, and 101.2, Swift Current section.

February 24.—File 3438.13. Inspection of Canadian Pacific Railway bridges at mileages 33.9, 35.8, 61.5, 86.4, 118.0, 121.3, 122.5, 128.8, and 130.7.

February 25.—File 3439.7. Inspection of Canadian Pacific Railway bridges, 23.6, 73.1, and 108.4, Laggan section.

February 25.—File 3416.11. Inspection of Canadian Pacific Railway bridges at mileage 25.2, 79.4, 85.5, 106.4 and 115.4, Mountain section, Pacific Division, 1st, 2nd, 3rd and 4th crossings over the Kicking Horse river.

February 28.—Inspection highway crossing, township of Scarboro, county of York, at section 667-75 on the Canadian Northern Ontario Railway.

February 28.—Inspection of highway crossing on the Grand Trunk Railway, at St. Clair Avenue, Toronto, Ont.

March 3.—Inspection of Grand Trunk Railway yards at Point St. Charles, Que.

March 5.—Inspection of part of the Canadian Pacific Railway, Lacombe Branch, from Stettler, mileage 49.6, to Castor, mileage 84.6, a distance of 35.0 miles, for opening for traffic.

March 7.—File 5678.2. Inspection of Canadian Pacific Railway bridge at mileage 63.08, Broadview section.

March 7.—File 7724.8. Inspection of Canadian Pacific Railway bridges at mileage 3.8 and 127.4, Moosejaw section, Western Division.

March 8.—Inspection of 11th Avenue Street crossing, over Canadian Pacific Railway tracks, at Moosejaw, Sask., as to protection of dangerous crossings.

March 9.—Inspection of highway crossings on the Grand Trunk Railway, in village of Port Credit, Ont.

March 9.—Inspection of new second track of the Canadian Pacific Railway between Dalhousie Mills and Avonmore, mileage 48.6 to 48.8, for opening for traffic.

March 11.—Inspection at Main Street over the Canadian Pacific Railway tracks at Kenora, Ont., as to protection of dangerous crossings.

SESSIONAL PAPER No. 20c

March 17.—Inspection of the line of the Montreal, Park and Island Railway for opening for traffic from the corner of Plateau Avenue and Sherbrooke Street, in the city of Montreal to Montreal West.

March 17.—Inspection of the line of the Montreal, Park and Island Railway from Hendersons to St. Vincent, a distance of nearly three miles, for opening for traffic.

March 23.—Inspection of highway crossing known as Brock Road, between lots 18 and 19, con. 4, township of Pickering, on the line of the Canadian Northern Ontario Railway.

March 23.—Inspection of highway crossing known as the Kinsale Road, between lots 2 and 3, con. 5, township of Pickering, on the line of the Canadian Northern Ontario Railway.

March 29.—Inspection of diverted highway crossings over the Grand Trunk Railway, between mileage 627 and mileage 672, near Wainwright, Alta.

March 29.—Inspection of drainage on Jules Marcotte's farm at Bainsville, Ont., on the line of the Grand Trunk Railway.

APPENDIX F.

REPORT OF THE CHIEF OPERATING OFFICER OF THE BOARD.

April 15, 1910.

DEAR SIR,—I beg to submit herewith report of the operating department, showing the number of persons killed and injured in train accidents during the period commencing April 1, 1909, and ending March 31, 1910, as per returns furnished by the railway companies in accordance with the Railway Act, and also giving a synopsis of the work done by the inspectors in connection with railway equipment and operation all over Canada.

During the above period 456 persons were killed and 1,123 injured. They are classified as follows:—

	Killed.	Injured.
Passengers..	51	211
Employees..	194	745
Other persons..	211	167
	<hr/> 456	<hr/> 1,123

Investigations were made by the Board's inspectors in 282 of the above cases and reports on same were handed to the Board.

General inspections have been made by the inspectors of equipment; stations and crossings of all railways under the jurisdiction of the Board.

Yours truly,

(Signed) A. J. NIXON,
Chief Operating Officer.

A. D. CARTWRIGHT, Esq.,
Secretary, Board Railway Commissioners,
Building.

SESSIONAL PAPER No. 20c

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

STATEMENT showing the number of persons killed and injured on various railways in Canada for year ending March 31, 1910.

Name of Railway.	PASSENGERS.		EMPLOYEES.		OTHER PERSONS.		TOTAL.	
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
Grand Trunk Railway	2	37	25	178	77	72	104	287
Canadian Pacific Railway.....	46	128	103	128	108	55	257	311
Canadian Northern Railway.....	1	20	14	226	5	16	20	262
Michigan Central Railway	1	11	12	158	10	8	23	177
Canadian Northern Quebec Ry..	1	.....	1	15	4	3	6	18
Père Marquette Railway.....	.....	.....	2	.....	1	.....	3	.....
Quebec, Montreal and Southern Railway.....	.....	.....	1	3	.....	.....	1	3
Toronto, Hamilton and Buffalo Railway.....	.....	.....	2	1	.....	.....	2	1
New York and Ottawa, O. & N.Y. Railway.....	.....	.....	.....	.....	1	.....	1	.....
Great Northern Railway .....	.....	4	6	7	.....	.....	6	11
Niagara, St. Catharines and To- ronto Railway.....	.....	.....	.....	.....	1	1	1	1
Montreal Terminal Railway.....	.....	.....	.....	.....	1	1	1	1
Montreal Park and Island Ry....	.....	.....	.....	.....	.....	1	.....	1
Dominion Atlantic Railway.....	.....	1	.....	.....	.....	2	.....	3
Oshawa Railway .....	.....	.....	.....	.....	.....	1	.....	1
Vancouver, Victoria and Eastern Railway and Navigation Co....	.....	.....	24	16	.....	.....	24	16
Windsor, Essex and Lake Shore Rapid Railway .....	.....	.....	.....	.....	1	.....	1	.....
Canadian Northern Ontario Ry..	.....	.....	3	2	1	2	4	4
Wabash Railway.....	.....	.....	.....	6	.....	1	.....	7
Esquimalt and Nanaimo Railway	.....	.....	1	.....	.....	1	1	1
Central Vermont Railway.....	.....	10	.....	5	.....	.....	.....	15
Brantford and Hamilton Electric Railway ..	.....	.....	.....	.....	.....	3	.....	3
Hereford Railway Co .....	.....	.....	.....	.....	1	.....	1	.....
	51	211	194	745	211	167	456	1,123

1 GEORGE V., A. 1911

STATEMENT showing the character of the accidents sustained by the persons killed and injured on the various railways in Canada for the year ending March 31, 1910.

Name of Railway.	Derailment.		Head-on Collision.		Stealing Ride.		While Shunting.	
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
Grand Trunk		12	2	9	1	1	1	2
Canadian Pacific	50	88	5	18	6	6	3	3
Canadian Northern	1	9	1	6				
Michigan Central		1		1			1	
Can. Northern Quebec		1		1				
Père Marquette								
Quebec, Montreal and Southern								
Toronto, Hamilton and Buffalo	1	1						
New York and Ottawa. O. and N.Y.								
Great Northern	4	10						
Niagara, St. Catharines and Toronto								
Montreal Terminal								
Montreal Park and Island								
Dominion Atlantic								
Oshawa Railway								
Vancouver, Victoria and Eastern Ry. and Navg. Co.	23	16						
Windsor, Essex and Lake Shore R.R.								
Canadian Northern, Ont.								
Wabash Ry.								
Esquimalt and Nanaimo		15						
Central Vermont Ry								
Brantford and Hamilton Electric. Hereford Ry. Co.								
	79	153	8	35	7	7	5	5

SESSIONAL PAPER No. 20c

STATEMENT showing the character of the accidents sustained by the persons killed and injured on the various railways in Canada for the year ending March 31, 1910.

Name of Railway.	Riding on Cars.		Level Crossing.		Falling off Freight Cars.		Trespassing.	
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
Grand Trunk.			14	24	3	19	24	28
Canadian Pacific.			19	18	5	3	45	15
Canadian Northern.				5	1	6	2	4
Michigan Central.	1		3	4		2	4	1
Can. Northern, Quebec.			2			2	1	2
Père Marquette.								
Que., Montreal and Southern.								
Toronto, Hamilton and Buffalo.					1			
New York & Ottawa, O. & N. Y.								
Great Northern.								
Niagara, St. Catharines & Toronto.							1	1
Montreal Terminal.								
Montreal Park and Island.								
Dominion Atlantic.				1				1
Oshawa Railway.								
Vancouver, Victoria & Eastern R. & N. Co.								
Windsor, Essex & Lake Shore Ry.			1					
Can. Northern, Ontario.							1	2
Wabash Ry.				1				
Esquimalt and Nanaimo.								1
Central Vermont Ry.								
Brantford and Hamilton Electric.				3				
Hereford Ry. Co.							1	
	1		39	56	10	32	79	55

1 GEORGE V., A. 1911

STATEMENT showing the character of the accidents sustained by the persons killed and injured on the various railways in Canada for the year ending March 31, 1910.

Name of Railway.	Body found on track or bridge.		While Switching.		Pitch-in with hand-car.		Died in train ; natural cause.	
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured
Grand Trunk.....	33	.....	5	22	.....	.....	.....	.....
Canadian Pacific	24	.....	6	16	2	.....	1	.....
Canadian Northern.....	2	.....	2	19	.....	1	.....	.....
Michigan Central.....	1	.....	.....	9	.....	.....	.....	.....
Canadian Northern, Quebec.....	.....	.....	1	5	.....	.....	.....	.....
Père Marquette.....	1	.....	.....	.....	.....	.....	.....	.....
Quebec, Montreal & Southern.....	.....	.....	.....	1	.....	.....	.....	.....
Toronto, Hamilton & Buffalo.....	.....	.....	.....	.....	.....	.....	.....	.....
New York & Ottawa, O. & N. Y. ....	.....	.....	.....	.....	.....	.....	.....	.....
Great Northern Ry.....	.....	.....	.....	.....	.....	.....	.....	.....
Niagara, St. Catharines & Toronto .....	.....	.....	.....	.....	.....	.....	.....	.....
Montreal Terminal.....	.....	.....	.....	.....	.....	.....	.....	.....
Montreal Park and Island. ....	.....	.....	.....	.....	.....	.....	.....	.....
Dominion Atlantic.....	.....	.....	.....	.....	.....	.....	.....	.....
Oshawa Railway.....	.....	.....	.....	.....	.....	.....	.....	.....
Vancouver, Victoria and Eastern Ry. & N. Co. ....	.....	.....	.....	.....	.....	.....	.....	.....
Windsor, Essex & Lake Shore R. R. Co.....	.....	.....	.....	.....	.....	.....	.....	.....
Canadian Northern, Ontario. ....	.....	.....	.....	.....	.....	.....	.....	.....
Wabash Ry.....	.....	.....	.....	.....	.....	.....	.....	.....
Esquimalt & Nanaimo Ry.....	1	.....	.....	.....	.....	.....	.....	.....
Central Vermont Ry.....	.....	.....	.....	.....	.....	.....	.....	.....
Brantford & Hamilton Electric.....	.....	.....	.....	.....	.....	.....	.....	.....
Hereford Ry. Co .....	.....	.....	.....	.....	.....	.....	.....	.....
	62	.....	14	72	2	1	1	.....

SESSIONAL PAPER No. 20c

STATEMENTS showing the character of the accidents sustained by the persons killed and injured on the various railways in Canada for year ending March 31, 1910.

Name of Railway.	Working under cars.		Struck looking out of car window.		Suicide.		Struck by switch stand.	
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
Grand Trunk.....		1						4
Canadian Pacific.....		2	1		2			
Canadian Northern.....								
Michigan Central.....							1	
Canadian Northern, Quebec.....								
Père Marquette.....								
Quebec, Montreal and Southern.								
Toronto, Hamilton & Buffalo.								
New York & Ottawa, O. & N. Y.					1			
Great Northern Ry.....								
Niagara, St. Catharines & Toronto								
Montreal Terminal.....								
Montreal Park and Island.								
Dominion Atlantic								
Oshawa Railway								
Vancouver, Victoria and Eastern								
Ry. and N. Co.....								
Windsor, Essex and Lake Shore								
R. R. Co.....								
Canadian Northern, Ontario.....								
Wabash Ry.....								
Esquimalt & Nanaimo Ry.....								
Central Vermont Ry.....								
Brantford & Hamilton Electric								
Hereford Ry Co.								
		3	1		3		1	4

1 GEORGE V., A. 1911

STATEMENT showing the character of the accidents sustained by the persons killed and injured on the various railways in Canada for year ending March 31, 1910.

Name of Railway.	Adjusting couplers, coupling or uncoupling.		Passenger falling off passenger train.		Working on track.		Working on bridge.	
	K.	I.	K.	I.	K.	I.	K.	I.
Grand Trunk	1	10	.....	2	1	3	.....	1
Canadian Pacific	2	5	1	4	4	1	.....	2
Canadian Northern	2	11	.....	2	.....	4	.....	.....
Michigan Central	2	3	1	..	2	12	...	...
Can. Northern Quebec . . . . .	.....	4	.....	.....	.....	.....	.....	.....
Père Marquette . . . . .	.....	.....	.....	.....	1	.....	.....	.....
Quebec, Montreal and Southern . . . . .	.....	1	.....	.....	.....	.....	.....	.....
Toronto, Hamilton and Buffalo . . . . .	.....	.....	.....	.....	.....	.....	.....	.....
New York and Ottawa, Ottawa and New York . . . . .	.....	.....	.....	.....	.....	.....	.....	.....
Great Northern Railway . . . . .	.....	.....	.....	.....	.....	1	.....	.....
Niagara, St. Catharines and Toronto . . . . .	.....	.....	.....	.....	.....	.....	.....	.....
Montreal Terminal . . . . .	.....	.....	.....	.....	.....	.....	.....	.....
Montreal Park and Island . . . . .	.....	.....	.....	.....	.....	.....	.....	.....
Dominion Atlantic . . . . .	.....	.....	.....	.....	.....	.....	.....	.....
Oshawa Railway . . . . .	.....	.....	.....	.....	.....	.....	.....	.....
Vancouver, Victoria and Eastern R. & N. Co. . . . .	.....	.....	.....	.....	.....	.....	.....	.....
Windsor, Essex and Lake Shore Rapid Railway . . . . .	.....	.....	.....	.....	.....	.....	.....	.....
Canadian Northern Ontario . . . . .	.....	.....	.....	.....	.....	.....	.....	.....
Wabash Railway . . . . .	.....	.....	.....	.....	.....	.....	.....	.....
Esquimalt and Nanaimo . . . . .	.....	.....	.....	.....	.....	.....	.....	.....
Central Vermont Railway . . . . .	.....	.....	.....	.....	.....	.....	.....	.....
Brantford and Hamilton Electric Railway . . . . .	.....	.....	.....	.....	.....	.....	.....	.....
Hereford Railway . . . . .	.....	.....	.....	.....	.....	.....	.....	.....
	7	34	2	8	8	21	.....	3

STATEMENT showing the character of the accidents sustained by the persons killed and injured on the various railways in Canada for year ending March 31, 1910.

Name of Railway.	Collision rear end.		Collision street car and steam car.		Attempt to get on train while in motion.		Side ladders.	
	K.	I.	K.	I.	K.	I.	K.	I.
Grand Trunk Railway	6	.....	2	4	16	.....	6
Canadian Pacific	1	2	.....	.....	11	13	.....	.....
Canadian Northern	2	.....	.....	1	3	.....	.....
Michigan Central	4	.....	.....
Canadian Northern Quebec Railway	1	.....	.....	.....
Père Marquette	1	.....	.....	.....
Quebec, Montreal and Southern
Toronto, Hamilton and Buffalo
New York and Ottawa, Ottawa and New York
Great Northern
Niagara, St. Catharines and Toronto
Montreal Terminal
Montreal Park and Island
Dominion Atlantic Railway
Oshawa Railway
Vancouver, Victoria and Eastern Railway and N.
Windsor, Essex and Lake Shore R. R
Canadian Northern Ontario
Wabash Railway
Esquimalt and Nanaimo
Central Vermont
Brantford and Hamilton Electric Railway
Hereford Railway Co
	1	10	.....	2	18	36	.....	6

SESSIONAL PAPER No. 20c

STATEMENT showing the character of the accidents sustained by the persons killed and injured on the various railways in Canada for year ending March 31, 1910.

Name of Railway.	Falling between cars walking on top of train.		Fell off work train.		Falling off handcar.		Collision with cars standing foul or in yard.	
	K.	I.	K.	I.	K.	I.	K.	I.
Grand Trunk.....	1	4			1	1		6
Canadian Pacific.....	2		1		1	1	2	3
Canadian Northern.....		1				5		
Michigan Central.....		2				1		
Canadian Northern, Quebec.....								
Père Marquette.....								
Quebec, Montreal & Southern.....								
Toronto, Hamilton & Buffalo.....								
Ottawa & New York, New York & Ottawa.....								
Great Northern Ry.....								
Niagara, St. Catharines & Toronto.....								
Montreal Terminal.....								
Montreal Park & Island.....								
Dominion Atlantic.....								
Oshawa Ry.....								
Vancouver, Victoria & Eastern R. & N. Co.....								
Windsor, Essex & Lake Shore R. R.....								
Canadian Northern.....								
Wabash Ry.....								
Esquimalt & Nanaimo.....								
Central Vermont.....								
Brantford & Hamilton Electric Ry.....								
Hereford Ry.....								
	3	7	1	.....	2	8	2	9

STATEMENT showing the character of the accidents sustained by the persons killed and injured on the various railways in Canada for year ending March 31, 1910.

Name of Railway.	Under construction.		Working under engine.		Locomotive explosion.		Jumping off train while in motion.	
	K.	I.	K.	I.	K.	I.	K.	I.
Grand Trunk.....				1		3	1	10
Canadian Pacific.....				2		2	6	8
Canadian Northern.....		6		2			2	5
Michigan Central.....							1	6
Canadian Northern, Quebec.....								
Père Marquette.....								
Quebec, Montreal & Southern.....								
Toronto, Hamilton & Buffalo.....								
Ottawa & New York, New York & Ottawa.....								
Great Northern Ry.....								
Niagara, St. Catharines & Toronto.....								
Montreal Terminal.....								
Montreal Park & Island.....								
Dominion Atlantic.....								1
Oshawa Ry.....								
Vancouver, Victoria & Eastern R. & N. Co.....								
Windsor, Essex & Lake Shore R. R.....								
Canadian Northern, Ontario.....	1	1						
Wabash Ry.....								
Esquimalt & Nanaimo.....								
Central Vermont.....								
Brantford & Hamilton Electric Ry.....								
Hereford Ry.....								
	1	7	.....	5	.....	5	10	30

1 GEORGE V., A. 1911

STATEMENT showing the character of the accidents sustained by the persons killed and injured on the various railways in Canada for year ending March 31, 1910.

Name of Railway.	Washout.		Riding on pilot of engine.		Electrocuted		Working on the cars and engine.	
	K.	I.	K.	I.	K.	I.	K.	I.
Grand Trunk	1		1	2	1			2
Canadian Pacific								
Canadian Northern								4
Michigan Central				1				1
Canadian Northern, Quebec								
Père Marquette								
Quebec, Montreal & Southern								
Toronto, Hamilton & Buffalo								
Ottawa & New York, New York & Ottawa								
Great Northern								
Niagara, St. Catharines & Toronto								
Montreal Terminal					1			
Montreal Park & Island								
Dominion Atlantic								
Oshawa Ry.								
Vancouver, Victoria & Eastern R. & N. Co.								
Windsor, Essex & Lake Shore Rapid Ry.								
Canadian Northern, Ontario								
Wabash Ry.								1
Esquimalt & Nanaimo Ry.								
Central Vermont								
Brantford & Hamilton Electric Ry.								
Hereford Ry. Co								
	1		1	3	2			8

STATEMENT showing the character of the accidents sustained by the persons killed and injured on the various railways in Canada for year ending March 31, 1910.

Name of Railway.	Overhead Bridge.		Falling off tender in attempting to move waterspout.		Working in shop.		Falling off bridge or trestle.	
	K.	I.	K.	I.	K.	I.	K.	I.
Grand Trunk		1		5				1
Canadian Pacific		1			3	15	2	
Canadian Northern		1		1		59	1	1
Michigan Central						65		
Canadian Northern, Quebec								
Père Marquette								
Quebec, Montreal & Southern								
Toronto, Hamilton & Buffalo								
Ottawa & New York, New York & Ottawa								
Great Northern Ry.								
Niagara, St. Catharines & Toronto								
Montreal Terminal								
Montreal Park & Island								
Dominion Atlantic								
Oshawa Ry.								
Vancouver, Victoria & Eastern R. & N. Co.								
Canadian Northern, Ontario								
Wabash Ry.								
Windsor, Essex & Lake Shore R. R.								
Esquimalt & Nanaimo Ry.								
Central Vermont								
Brantford & Hamilton Electric Ry.								
Hereford Ry.								
		3		6	3	139	3	2

SESSIONAL PAPER No. 20c

STATEMENT showing the character of the accidents sustained by the persons killed and injured on the various railways in Canada for year ending March 31, 1910.

Name of Railway.	Struck by Water-spout while in Motion.		Ran into Open Switch.		Unclassified.		Totals.	
	K.	I.	K.	I.	K.	I.	K.	I.
Grand Trunk.....		1		1	9	81	104	287
Canadian Pacific.....			1	4	51	79	257	311
Canadian Northern.....					5	105	20	262
Michigan Central.....					7	63	23	177
Canadian Northern, Quebec.....					1	3	6	18
Père Marquette.....							3	
Quebec, Montreal & Southern.....			1	1			1	3
Toronto, Hamilton & Buffalo.....							2	1
Ottawa & New York, New York & Ottawa.....							1	
Great Northern Ry.....			2				6	11
Niagara, St. Catharines & Toronto.....							1	1
Montreal Terminal.....						1	1	1
Montreal Park & Island.....						1		1
Dominion Atlantic.....								3
Oshawa Railway.....						1		1
Vancouver, Victoria & Eastern Ry. & N. Co.....					1		24	16
Canadian Northern Ontario.....					2	1	4	4
Wabash Railway.....						5		7
Windsor, Essex & Lake Shore R. R.....							1	
Esquimalt & Nanaimo.....							1	1
Central Vermont.....								15
Brantford & Hamilton Electric Ry.....								3
Hereford Ry ..							1	
		1	4	6	76	340	456	1123

1 GEORGE V., A. 1911

STATEMENT showing the character of accidents on various railways in Canada for year ending March 31, 1910.

Character of Accident.	Passengers.		Employees.		Other Persons.		Totals.	
	K.	I.	K.	I.	K.	I.	K.	I.
Derailment.....	37	103	42	50			79	152
Head-on collision.....		16	8	19			8	35
Stealing ride.....					7	7	7	7
While shunting.....			5	5			5	5
Riding on cars.....						1		1
Level crossing.....					39	56	39	56
Falling off freight cars.....			10	32			10	32
Trespassing.....					79	55	79	55
Body found on track or bridge.....	3		7		52		62	
While switching.....		3	13	67	1	2	14	72
Pitch-in with hand car.....			2	1			2	1
Died in train natural cause.....	1						1	
Working under cars.....				3				3
Struck, looking out of cab window.....			1				1	
Suicide.....					3		3	
Struck by switch stand.....			1	4			1	4
Adjusting couplers, coupling or uncoupling.....			7	34			7	34
Passenger falling off passenger train.....	2	8					2	8
Working on track.....			8	21			8	21
Working on bridge.....				3				3
Collision rear-end.....		2	1	8			1	10
Collision, street car and steam car.....		1		1				2
Attempt to get on train while in motion.....	4	11	5	11	9	14	18	36
Side ladders.....				6				6
Falling between cars, walking on top of train while in motion.....			3	7			3	7
Fell off work train.....			1				1	
Falling off hand car.....			2	8			2	8
Collision with cars standing foul or in yard.....		2	2	6		1	2	9
Under construction.....			1	7			1	7
Working under engine.....				5				5
Locomotive explosion.....				5				5
Jumping off train while in motion.....	1	12	6	12	3	6	10	30
Wash out.....			1				1	
Riding on pilot of engine.....			1	3			1	3
Electrocuted.....			1		1		2	
Working on cars and engines.....				8				8
Overhead bridges.....				3				3
Falling off tender in attempt to move water spout.....				6				6
Working in shop.....			3	139			3	139
Falling off bridge or trestle.....	1		2	2			3	2
Struck by waterspout while in motion.....				1				1
Ran into open switch.....			3	6	1		4	6
Unclassified.....	2	53	58	262	16	25	76	340
	51	211	194	745	211	167	456	1,123

Comparative statement of killed and injured between year ending March 31, 1909 and year ending March 31, 1910.

	Passengers.		Employees.		Other Persons.		Totals.	
	K.	I.	K.	I.	K.	I.	K.	I.
Year ending March 31, 1909.....	26	227	191	769	231	205	448	1,201
Year ending March 31, 1910.....	51	211	194	745	211	167	456	1,123
Increase over 1909.....	25		3				8	
Decrease over 1909.....		16		24	20	38		78

SESSIONAL PAPER No. 20c

Comparative statement in totals of killed and injured between year ending March 31, 1909, and year ending March 31, 1910, for each railway separately.

Name of Railway.	1909.		1910.		1910.			
					Increase.		Decrease.	
	K.	I.	K.	I.	K.	I.	K.	I.
Grand Trunk Ry.....	127	462	104	287			23	175
Canadian Pacific Ry.....	251	289	257	311	6	22		
Canadian Northern Ry.....	16	195	20	262	4	67		
Canadian Northern, Ontario Ry.....	1	2	4	4	3	2		
Canadian Northern, Quebec Ry.....	2	1	6	18	4	17		
Michigan Central Ry.....	18	152	23	177	5	25		
Wabash Ry.....	3	25		7			3	18
Toronto, Hamilton & Buffalo Ry.....	1		2	1	1	1		
Central Vermont Ry.....	1	1		15		14	1	
Dominion Atlantic Ry.....	2	3		3			2	
Great Northern Ry.....	1		6	11	5	11		
Quebec, Montreal & Southern Ry.....	1	9	1	3				6
Kingston & Pembroke Ry.....		3						3
Montreal Park & Island Ry.....	1	1		1			1	11
Bay of Quinte Ry.....	1						1	
Michigan Central & Pére Marquette.....		3						3
St. Lawrence & Adirondack Ry.....		4						4
Grand Trunk, Intercolonial.....	1	5					1	5
Windsor, Essex & Lake Shore R.R.....	8	4	1				7	4
Algoma Central.....	1						1	
Alberta Railway & Irrigation Co.....	2	1					2	1
British Columbia & Yukon.....		1						1
Esquimalt & Nanaimo Ry.....	1		1	1		1		
Thousand Island Ry. Co.....		1						1
Grand Trunk & Canadian Pacific Ry. Co.....	1	7					1	7
New York and Ottawa.....		2	1		1			2
Canadian Northern and G.T.P.....		1						1
Canadian Pacific and N.Y. Central.....		1						1
Grand Trunk and Toronto Electric.....	1	1					1	1
Niagara, St. Catharines and Toronto.....	1		1	1		1		
Chatham, Wallaceburg and Lake Erie Ry.....	4	22					4	22
Moncton and Buctouche.....	1						1	
Oxford and Moncton.....	1						1	
Temiscouata Ry.....		1						1
Grand Trunk and Canadian Northern, Quebec.....		4						4
Pére Marquette.....			3		3			
Montreal Terminal.....			1	1	1	1		
Oshawa Ry.....				1		1		
Vancouver, Victoria and Eastern Ry. and Nav. Co.....			24	16	24	16		
Brantford and Hamilton Electric Ry.....				3		3		
Hereford Ry. Co.....			1		1			
Increase.....					58	182		
Decrease.....							50	260
Increase for 1910.....					8			
Decrease for 1910.....								78

COLLISIONS INVESTIGATED DURING YEAR 1909-1910.

Reference to Record.	Date Reported.	Date of Accident.	Name of Railway.	Place.	Killed.	Injured.	Cause of Accident.
No.	1909.	1909.					
950	April 1	Mar. 27	Canadian Pacific	Switzer Junction.	...	...	Collision, head-on. Engineer expecting switch to be set for him did not stop. He could not see on account of flying snow.
951	"	"	Canadian Pacific	Grandon, 1½ m. west of	3	2	Collision, head-on. Conductor neglected to show order to brakemen, telling them to use north track. Brakeman opened switch for north track and collision occurred between extra east engine 2602 and passenger train.
4511							
955	"	"	Grand Trunk	Bowmanville	...	1	Collision. Engine and caboose ran foul of west bound main line and was not protected.
4512							
957	"	"	Canadian Pacific	Adamsville, 1 m. east of	2	...	Collision, head-on. Failure of train despatcher at Farnham to obtain the signature of conductor of extra 1661 to the order before advancing light engine 1639 from Brigham Junction.
4479							
964	May 6	April 9	Canadian Pacific	Tweed, near	...	2	Collision, head-on. Operator receiving train order for 2nd No. 5 after it had passed.
4530							
975	May 20	Apr. 29	Quebec, Montreal & S...	Iberville Junction.	1	2	Collision—Misplaced switch leading from the main line to the engine house, engineer not detecting the position of the switch until he was close enough to see the point of the rail. Collided with box car and engine.
4642							
976	"	29 May	Grand Trunk	Prescott, Ont.	...	2	Collision, rear-end. West bound wayfreight not being properly protected by flagman, as called for by standard code of rules and rules of the company.
4680							
977	"	"	Canadian Pacific	Goderich yard	...	3	Collision—No. 91 struck engine 839 switch-on on main line. Failure on part of engineer of train No. 91 to carry out instructions of conductor who flagged No. 91.
4648							
999	June 12	"	Grand Trunk	Paris Junction	...	3	Collision, rear-end. Failure on the part of the engineer of engine 976 to observe signals and have his train under control approaching Paris Junction.
4706							

1 GEORGE V., A. 1911

SESSIONAL PAPER No. 20c

1020	"	23 June	10 Great Northern	Burnaby, B.C., $\frac{1}{2}$ m. north of.	3	8	Collision, head-on. Failure of mixed train No. 397 to take the siding at Burrard, and await the arrival of train 274. Burrard is two miles north of the point where the collision occurred.
4754							
1021	"	28 "	9 Canadian Pacific	St. Maurice River Bridge, near Three Rivers, Que.	1	5	Collision, head-on. Crew of pilgrimage train extra 556 and telegraph operator at Piles Junction overlooking regular passenger train No. 103.
4756							
1023	"	29 May	31 Canadian Pacific	Hoban, Ont.	1	4	Collision—Failure of conductor of work extra engine 1621 to set switch for main line or see that his train was properly protected before the arrival of passenger train No. 2.
4745							
1024	"	29 June	9 Canadian Pacific	Mileage 49, near Carry, White River Section.	1	3	Collision, head-on. Extra 1713 westbound struck extra 1714 eastbound, on account of misunderstanding between train crews.
4758							
1038	July	12 "	30 Canadian Pacific	Mileage 30 $\frac{1}{2}$, Ignace Section.	1	.....	Collision—Brakeman of tie train engine 670 failed to flag extra engine 725. Both trains were backing up.
4857							
1056	Aug.	18 July	23 Grand Trunk	Hepworth.	.....	1	Collision—Mixed train No. 59 struck while standing at station. Carelessness on part of engineers and conductor in not giving more attention to time table. Extra north engines 334 and 485 coupled, collided at Hepworth with mixed No. 59, 2 minutes before No. 59 was due to leave. This is also a violation of block system in leaving Parkdale Junction before No. 59 was due to leave Hepworth.
4885							
1068	Sept.	7 "	23 Canadian Pacific	Caldwell	1	.....	Collision—Work extra 1695 struck No. 122. Failure on the part of engineer and conductor of train No. 122 to send out flagman to protect train.
4887							
1085	"	22 Sept.	9 Canadian Pacific	Monklands yard	1	.....	Collision—Work train extra 1565 running through yard at too high rate of speed and collided with empty ballast car standing on side track.
5138							
1100	Sept.	28 Aug.	23 Grand Trunk	London yard, Ont.	.....	2	Collision—While switching train No. 418 cars fouled main line rear of Péré Marquette passenger train, returning from G.T.R. station struck same.
5129							
1108	Oct.	8 Sept.	15 Canadian Pacific	Chesterville, Ont.	.....	2	Collision—Very bad condition of the brakes on work extra 1572, and the poor judgment used by engineer. He should have had his train under control approaching yard limit board.
5154							
1124	"	8 Oct.	2 Canadian Northern	M. 162, Rainy River section, Banning.	2	1	Collision—Head-on. After receiving an order to advance to Banning against 5 extras westbound, extra engine 232 backed out of siding at La Seine where they had cleared to meet No. 97 and the five extras. The order to meet 97 at La Seine was still in effect, but they overlooked this and collided with No. 97 near Banning.
5240							

COLLISIONS INVESTIGATED DURING YEAR 1909-10—Concluded.

1 GEORGE V., A. 1911

Reference to Record.	Date Reported.	Date of Accident.	Name of Railway.	Place.	Killed.	Injured.	Cause of Accident.
No.	1909.	1909.					
1136 5395	Nov. 3	Oct. 24	Canadian Pacific	West of Hosner, B.C., M. 30, Cranbrook sec.	1	1	Collision--Three cars and van of extra 1316 were left standing in Miche yard while engine was taking water. The air leaked off cars and they ran away, colliding with extra east 1434. Hand brake not set.
1138 5309	" 10	" 4	Grand Trunk	Utterson, Ont.	...	1	Collision--Head-on. Engineer of engine 816 north bound forgot that his train had orders to meet freight extra south bound. South bound train had superior rights and was standing on main line. North bound train should have stopped at the north end of the yard and pulled into the siding.
1148 5338	" 12	" 16	Canadian Pacific	Chillon, Man.	1	...	Collision-- Misplaced switch.
1152 5265	" 16	" 12	Grand Trunk	Coaticook, Que.	1	1	Collision--Failure of brakeman to close the switch for the main line after his train (No. 84) pulled in to clear at west end of passing track. No. 6 ran through open switch and struck rear end of 84.
1164 5428	Dec. 10	Nov. 25	Canadian Northern	West end of Saskatoon yard.	...	2	Collision--No. 10 from Prince Albert ran through a misplaced switch at 23rd Street and struck some cars on the siding.
1165 5379	" 10	" 1	Grand Trunk	Peterboro, Charlotte street	...	2	Collision--Motorman failing to stop car, street car No. 14 ran through lowered gates on the west side of the crossing striking cylinder of engine 234 on extra east freight.
1173 5420	" 13	" 20	Canadian Northern	Brandon, Man.	...	1	Collision--On account of packing leathers in the driving brakes, cylinders being defective and the driving brake on engine 605 being in bad order, engineer was unable to stop engine before striking cars.
1207	1910. Jan. 3	Dec. 50	Canadian Northern	Winnipeg, Pembina Street	...	...	Collision--Between C.N. Ry. switch engine No. 306 and Winnipeg electric car No. 340. Due to confusion of signals and the fact that flagman had no control over C.N.R. trains.

SESSIONAL PAPER No. 20c

1211	"	22	"	14 Grand Trunk.....	Toronto, Bay Street....	3	Collision—Due to neglect of signalman not living up to rules of the company.
555b							
1176	1909.						
1213	Dec. 4	Oct.	17	Canadian Pacific.....	Jacques Cartier Junction....	2	Collision—C.P. Ry. left mixed cars at Grand Trunk main line without protection or notification to G.T. that they were there.
5297	1910.						
1242	Feb. 23	Jan. 6		Canadian Pacific.....	Winnipeg.....	1	Collision—Engine 2401 moving east in south roundhouse lead, collided with engine 1400 moving in opposite direction on same track. Caused by steam from engine on shop track obscuring view.
5643	1909.	1909.					
5333	Nov. 8	Oct. 30		Canadian Pacific.....	Melville Jet., 4 mile north....	3	Collision—Head-on. Conductor of No. 19 failed to examine train register at Melville Junction, which would have shown him that passenger train No. 34 had not yet arrived.
1231	1910.	1910.					
5680	Mar. 22	Jan. 26		Grand Trunk.....	Windsor, Ont....	1	Collision—Runaway caboose collided with engines on main line.
1229							

DERAILMENTS INVESTIGATED DURING 1909-1910.

Reference to Record.	Date Reported.	Date of Accident.	Name of Railway.	Place.	Killed.	Injured.	Cause of Accident.
No.	1909.	1909.					
974	May 21	May 5	Canadian Northern.....	Mileage 82, Rossburn Section	....	5	Derailment—Cause unknown. The van and car next van derailed.
4633							
991	June 8	June 2	Grand Trunk.	Phelpston (4 mile north of)...	....	3	Derailment—Brake gearing becoming loose, car No. 308615, box car, and baggage mail and smoker derailed.
4671							
1002	June 10	June 7	Canadian Pacific ..	Waskaso, Alta. (4 mile south)	....	3	Derailment—Broken journal box on the tender of engine No. 472.
1026	June 26	June 19	Great Northern.....	New Westminster, B.C.....	2	..	Derailment—The switch points were not properly closed and locked for the Great Northern track. The signals were not at 'proceed' for the train.
4775							
1030	July 17	July 9	Canadian Pacific.....	Griffith, B.C. (14 mile east of)	2	...	Derailment—Caused by high speed.
1033	July 10	July 7	Canadian Pacific.....	Innisfail (1½ mile north of)...	....	4	Derailment—Caused by defective track.
4868							
1054	Aug. 18	July 12	Canadian Pacific.....	Caledon, Ont.....	....	4	Derailment—Some part of the truck or brake gearing falling under the wheels.
4876							
1109	Oct. 8	Sept. 9	Grand Trunk.....	St. Mary's, Ont.....	....	....	Derailment—Sharp flange on the leading driving wheels.
5155							
1144	Nov. 10	Oct. 19	Canadian Pacific.....	North Bay, Ont.....	....	3	Derailment—Misplaced main line switch. Three cars were derailed.
5296							

SESSIONAL PAPER No. 20c

1143	Nov. 10 Oct.	16 Canadian Pacific.....	M.P. 74, near Turnbull, Ont.	26	Derailment Cattle being driven along the track, one was struck by engine, thrown against embankment and rolled underneath baggage car, derailing box, baggage, colonist, sleeper and first class coach.
5294					
1168	Dec. 10 Nov.	27 Canadian Northern	M. 129, Saskatoon section.	1	Derailment Broken rail caused by high speed.
5444					
1181	" 21 Dec.	11 Canadian Northern	Winnipeg.....	1	Derailment Unknown; engine left track while coming out of siding.
5508					
1182	" 21 "	8 Canadian Northern	Ten poles east of M. 16, Neepawa section.	1	Derailment Broken flange on the leading wheels of the leading truck of the snow plough.
5485					
1183	" 21 Nov.	28 Great Northern.....	Sapperton, B.C., near.....	22	Derailment—Blocking up of the Kilby creek culvert, the backing up of the water and washing out of the dump or fill over the culvert.
5432					
1200	1910. Jan. 22 Jan.	2 Canadian Pacific.....	Near Blandford, Ont., mile post 77, London section.	2	Derailment Unknown. Probably due to tyre becoming loose on the leading wheel of tender of engine.
5595					
1216	Feb. 7 "	20 Toronto, Hamilton and Buffalo.	Hamilton, Ont.	1	Derailment—Running a three-wheeled coupled switch engine at too high a rate of speed and not having the air brakes coupled.
1218	Jan. 22 "	5 Canadian Pacific.....	Ayr, Ont., near mileage 634, London section.	6	Derailment—Caused by some of the brake gearing of the tender giving way and dropping under tender wheels.
5599					

1 GEORGE V., A. 1911

LIST OF INSPECTIONS of Highway Crossings, April 1, 1909, to March 31, 1910.

Reference to Record No.	Date.	Crossings,
	1909.	
9437 Case. 4868	Apr. 10..	Inspection of level crossing in the village of Jarvis, Ont., G.T.R.
9437	Nov. 16..	Inspection of crossing near west mile board Shephard, C.P.R.
9437	" 16..	Inspection of crossing near west mile board Langdon, C.P.R.
9437	" 16..	Inspection of crossing near mile post 157, C.P.R.
9437	" 16..	Inspection of crossing near mile post 156, C.P.R.
9437	" 16..	Inspection of crossing near mile post 155, C.P.R.
9437	" 16..	Inspection of crossing near mile post 154, C.P.R.
9437	" 16..	Inspection of crossing near mile post 146, C.P.R.
9437	" 16..	Inspection of crossing near mile post 147, C.P.R.
9437	" 16..	Inspection of crossing east switch Strathmore, C.P.R.
9437	" 16..	Inspection of crossing near west switch Namaka, C.P.R.
9437	" 16..	Inspection of crossing near west switch, Bassano, C.P.R.
9437	July 21..	Inspection of crossing just $\frac{1}{4}$ mile west of Havelock station, C.P.R.
9437	" 21..	Inspection of three bad crossings between 3 and 4 miles west Havelock station, C.P.R.
9437	" 21..	Inspection of three crossings $\frac{1}{2}$ mile east of Norwood station, C.P.R.
9437	" 21..	Inspection of crossing mile post 9·6, C.P.R.
9437	" 21..	Inspection of crossing mile post 12, C.P.R.
9437	" 21..	Inspection of crossing mile post 15·4, C.P.R.
9437	" 21..	Inspection of crossing mile post 14, C.P.R.
9437	" 21..	Inspection of crossing mile post 16 $\frac{1}{4}$, C.P.R.
9437	" 21..	Inspection of crossing mile post 18, C.P.R.
9437	" 21..	Inspection of crossing mile post 20, C.P.R.
9437	" 21..	Inspection of crossing mile post 24 (just east of), C.P.R.
9437	" 21..	Inspection of four crossings just west of Peterboro station, C.P.R.
9437	" 21..	Inspection of crossing mile post 27, C.P.R.
9437	" 21..	Inspection of crossing mile post 39·4, C.P.R.
9437	" 21..	Inspection of crossing mile post 40 $\frac{1}{2}$, C.P.R.
9437	" 21..	Inspection of crossing just east of Pontypool station, C.P.R.
9437	" 21..	Inspection of crossing just west of Manver station, C.P.R.
9437	" 21..	Inspection of crossing west of mile post 52, C.P.R.
9437	" 21..	Inspection of crossing mile post 52 $\frac{1}{2}$, C.P.R.
9437	" 21..	Inspection of crossing mile post 56 $\frac{1}{2}$, C.P.R.

SESSIONAL PAPER No. 20c

LIST OF INSPECTIONS of Highway Crossings, April 1, 1909, to March 31, 1910—*Con.*

Reference to Record No.	Date.	Crossings.
	1909.	
9437	July 21..	Inspection of crossing mile post 59, C.P.R.
9437	" 21..	Inspection of crossing mile post 59 $\frac{1}{4}$, C.P.R.
9437	" 21..	Inspection of crossing mile post 61, C.P.R.
9437	" 21..	Inspection of crossing mile post 62 $\frac{1}{4}$, C.P.R.
9437	" 21..	Inspection of crossing mile post 65 $\frac{1}{4}$, C.P.R.
9437	" 21..	Inspection of crossing mile post 67 $\frac{3}{4}$, C.P.R.
9437	" 21..	Inspection of crossing mile post 69, C.P.R.
9437	" 21..	Inspection of crossing mile post 70, C.P.R.
9437	" 21..	Inspection of crossing mile post 71, C.P.R.
9437	" 21..	Inspection of crossing just west of Claremont Station, C.P.R.
9437	" 21..	Inspection of crossing east of mile post 76, C.P.R.
9437	" 21..	Inspection of crossing mile post 81, C.P.R.
9437	" 21..	Inspection of crossing within one mile of Sherring Station, east of mile post 85 \cdot 8, C.P.R.
9437	" 21..	Inspection of crossing mile post 86 $\frac{3}{4}$, C.P.R.
9437	" 21..	Inspection of crossing mile post 89 $\frac{1}{2}$, C.P.R.
9437	" 21..	Inspection of crossing mile post 90, C.P.R.
9437	" 21..	Inspection of crossing Wexford Station, C.P.R.
9437	" 21..	Inspection of crossing $\frac{1}{4}$ mile east of Myrtle Station.
9437	" 21..	Inspection of crossings (2) west of Myrtle Station, C.P.R.
9437	April 15..	Inspection of crossing just east of Cobourg Station, G.T.R.
9437	" 15..	Inspection of two bad crossings just west of station, G.T.R.
9437	" 15..	Inspection of crossing at Oshawa Junction, G.T.R.
9437.20	Feb. 11..	Inspection of crossings (4) in Berlin on the Grand Trunk Railway (1) Ahead Street.
9437.29	" 11..	Inspection of crossing at Webber Street on the G.T.R. in Town of Berlin.
9437.20	" 11..	Inspection of crossing at Edward Street on the G.T.R. in Town of Berlin.
9437.20	" 11..	Inspection of crossing at Waterloo Street on G.T.R. in Town of Berlin.
9437.24	May 6..	Inspection of crossing at Charing Cross, on Michigan Central Railway.
9437.25	" 12..	Inspection of crossing at Centre street, Chatham, Ont., on the C.P.R.
9437.25	" 12..	Inspection of crossing at Wellington street, Chatham, Ont., on the C.P.R.
9437.27	" 12..	Inspection of crossing at Park street, Chatham, G.T.R.
9437.28	" 6..	Inspection of crossing at Columbia ave., B.C., C.P.R.
9437.32	" 16..	Inspection of first crossing east of station at Vankleek Hill, Ont., C.P.R.

1 GEORGE V., A. 1911

LIST OF INSPECTIONS of Highway Crossings, April 1, 1909, to March 31, 1910—*Con.*

Reference to Record Number.	Date.	Crossings.
	1909.	
9437.36	May 18..	Inspection of crossing at Place St. Henri and St. Ferdinand street, St. Henri, G.T.R.
9437.47	Mar. 29..	Inspection of crossing just east of diamond where G.T.R. and C.P.R. cross near mile post 222, in Toronto, Ont.
9437.48	" 29..	Inspection of crossing just east of Downsview Station, G.T.R.
9437.49	" 29..	Inspection of crossing just at east end of Concord Station, G.T.R.
9437.50	" 29..	Inspection of crossing just east of Maple Station, G.T.R.
9437.51	" 29..	Inspection of crossing at mile post 208, G.T.R.
9437.53	" 29..	Inspection of crossings (2) south of Holland Landing, G.T.R.
9437.54	" 29..	Inspection of crossing at mile post 188, G.T.R.
9437.55	" 29..	Inspection of crossing at mile post 177, G.T.R. (south of Gilford Station).
9437.56	" 29..	Inspection of crossing at mile post 171, G.T.R.
9437.57	" 29..	Inspection of crossing south of Bradford Station, mile post 40, G.T.R.
9437.58	" 29..	Inspection of crossing near mile post 39, G.T.R.
9437.59	" 29..	Inspection of crossing near or north of Newmarket Station, Ont., G.T.R.
9437.61	July 6..	Inspection of crossing just west of Norval Station, G.T.R.
9437.62	" 7..	Inspection of crossing at the intersection of town line between York and Scarborough, Ont., G.T.R.
9437.72	Feb. 28..	Inspection of crossing at Queen street, mileage 20, 12 Tp. Toronto, village of Streetsville, C.P.R.
9437.73	Aug. 26..	Inspection of crossing at Durham, Ont., C.P.R.
9437.74	" 26..	Inspection of four highway crossings in vicinity of Durham, Ont., C.P.R.
9437.78	" 28..	Inspection of crossing two miles east of Methven, Man., C.P.R.
9437.80	Sept. 21..	Inspection of Dennison avenue crossing at Weston, near Toronto, on C.P.R.
9437.81	" 10..	Inspection of crossing just west of Jockey Club race track, Hamilton, Ont., G.T.R.
9437.85	" 27..	Inspection of crossing at Norfolk Road, Simcoe, Ont.
9437.86	" 27..	Inspection of crossing at John street, Weston, Ont., C.P.R.
9437.91	" 27..	Inspection of crossing at Church street, Weston, Ont., C.P.R.
9447.88	Oct. 8..	Inspection of crossing in village of Colbourne (Welland street).
9437.89	Sept. 6..	Inspection of crossing (West crossing) Grenfell, Sask., C.P.R.
9437.90	" 27..	Inspection of crossing at King street, Weston, Ont., C.P.R.
9437.93	" 23..	Inspection of crossing at John street, three-quarter mile south of Simcoe station, G.T.R.
9437.94	Oct. 8..	Inspection of Wallace avenue, crossing West Toronto, G.T.R.
9437.101	Nov. 16..	Inspection of crossing at McCarthy Ave., leading to Cyrville, County Carleton, on old St. Lawrence & Ottawa Railway.
9437.102	" 25..	Inspection of crossing at Woodbine Ave., between Toronto and Little York, G.T.R.
9437.103	" 25..	Inspection of crossing at Main Street, Mileage post 102, Blind River, Ont., C.P.R.

SESSIONAL PAPER No. 20c

LIST OF INSPECTIONS of Highway Crossings, April 1, 1909, to March 31, 1910—*Con.*

Reference to Record Number.	Date.	Crossings.
	1909.	
9437.126	Dec. 1....	Inspection of crossing at Charlotte Street, Peterboro, Ont, Peterboro Radial Railway Company and G.T.R. Co.
	1910.	
9437.136	Jan. 12..	Inspection of crossing west of Buxton Station on M.C.R.
9437.137	" 12..	Inspection of crossing immediately east of Charing Croos, M.C.R.
9437.138	" 12..	Inspection of crossing four miles west of Ridgetown, M.C.R.
9437.139	" 12..	Inspection of crossing one mile east of Taylor, M.C.R.
9437.140	" 12..	Inspection of crossing, 2nd east of West Lorne Station, M.C.R.
9437.141	" 12..	Inspection of crossing just west of Dufferin Station, M.C.R.
9437.142	" 12..	Inspection of crossing east of Attercliffe Station, known as Diltz Road, M.C.R.
9437.144	" 12..	Inspection of crossing at Todmorden, mileage $4\frac{1}{2}$ miles north of Toronto, C.N.R.
9437.145	" 4..	Inspection of crossing just west of Northwood, Ont., on G.T.R.
9437.148	Feb. 28..	Inspection of crossing at mileage 9.2. Tp Lobo, between Concessions 2 and 3 C.P.R.
9437.149	Jan. 4..	Inspections of crossing at Royce Ave., City of West Toronto, Ont., C.P.R.
9437.150	" 4..	Inspection of Queen St. Crossing, Brampton, Ont. G.T.R.
	1909	
9437.52	Mar. 29..	Inspection of crossing $\frac{1}{4}$ mile south mile post 190, G.T.R.
	1910.	
9437.156	Jan. 7..	Inspection of crossing Gore Street, Fort William, Ont. C.N.R.
9437.168	" 22..	Inspection of crossing at Indian Road near Sunnyside, West Toronto, G.T.R.
9437.180	Feb. 21..	Inspection of crossing west of Longwood Station, G.T.R.
9437.181	Feb. 21..	Inspection of crossing west of Kingcourt Junction, G.T.R.
9437.182	" 21..	Inspection of crossing at Main Street, Mount Brydges, G.T.R.
9437.187	" 21..	Inspection of crossing at Chateaugay on New York Central & Hudson River Ry.
9437.187	" 21..	Inspection of crossing at Huntingdon on New York Central & Hudson River Ry.
9437.187	" 21..	Inspection of crossing at Beauharnois on New York Central & Hudson River Ry.
9437.202	" 28..	Inspection of crossing at Park Street, Brockville, G.T.R.
9437.211	Mar. 4..	Inspection of crossing Base Line near Whitby Junction, G.T.R.
9437.212	Feb. 28..	Inspection of crossing Concession road "D" near Scarborough Jct., G.T.R.
9437.213	" 28..	Inspection of crossing 2 miles west of Mallorytown, Ont., G.T.R.
9437.215	" 28..	Inspection of crossing east of York Station, G.T.R.
9437.220	Mar. 8..	Inspection of crossing mileage 16.2, known as Boulding's crossing, between Lots 9 and 10 Tp. Luther, County Wellington, C.P.R.
9437.221	" 8..	Inspection of crossing at mileage 20.2, Elora branch, C.P.R., Tp. Garafraxa, County of Wellington.
9437.223	" 8..	Inspection of crossing, mileage 30.7, Orangeville branch, C.P.R., Tp. of Caledon, County of Peel.
9437.225	" 8..	Inspection of crossing, mileage 21.2, Owen Sound branch, Townships of Eas Garafraxa and Caledon, and between Counties Dufferin and Peel, C.P.R.

1 GEORGE V., A. 1911

LIST OF INSPECTIONS of Highway Crossings, April 1, 1909, to March 31, 1910—*Con.*

Reference to Record Number.	Date.	Crossing.
	1910.	
9437.226	Feb. 28.	Inspection of crossing at mileage 32.36, London section, County of Halton, Tp. Trafalgar, C.P.R.
9437.230	" 28.	Inspection of crossing at mileage 43.71, London section, County of Wellington, Tp. Puslinch, between concessions 8 and 9, C.P.R.
9437.231	" 28.	Inspection of crossing at mileage 9.24, Wonham street, Ingersoll, Ont., C.P.R.
9437.232	" 28.	Inspection of crossing, mileage 40.61, Windsor section, Co. Lambton, Tp. Euphemia, between concessions 8 and 9, C.P.R.
9437.233	" 28.	Inspection of crossing at mileage 86.48, London section, Co. Oxford, Tp. North Oxford, between lots 19 and 20, concession 4, C.P.R.
9437.234	" 28.	Inspection of crossing at mileage 82.6, G. and G. branch, C.P.R.
9437.236	" 28.	Inspection of crossing at mileage 20.67, Thomas street, Village of Streetsville, C.P.R.
9437.237	" 28.	Inspection of crossing at mileage 106.28, Windsor section, Co. Essex, Tp. Sandwich, between concessions 2 and 3, C.P.R.
9437.252	" 28.	Inspection of crossing at Josephine street, in Town of Wingham, C.P.R.
9437.253	Mar. 9.	Inspection of crossing on G.T.R., 3 miles east of Shakespeare, known as Isler's crossing.
9437.258	" 8.	Inspection of crossing, mileage 11.2, Perth, Ont., C.P.R.
9437.260	" 8.	Inspection of crossing at St. Paul street, Lindsay, Ont., C.P.R.
9437.261	" 8.	Inspection of crossing at mileage 94.85, Havelock section, C.P.R.
9437.262	" 2.	Inspection of crossing, mileage 0.4, Ontario division, Toronto section, C.P.R.
9437.263	" 8.	Inspection of crossing, mile post 54.4, Burketon Jct., C.P.R.
9437.264	" 8.	Inspection of crossing, Roger street, Peterboro', C.P.R.
9437.266	" 8.	Inspection of crossing, Park street, Peterboro', C.P.R.
9437.267	" 8.	Inspection of crossing, Chamberland street, Peterboro', C.P.R.
9437.270	" 8.	Inspection of crossing, Maria street, mileage 23.8, Peterboro', Ont., C.P.R.
9437.270	" 8.	Inspection of crossing, Mark street, Peterboro', C.P.R.
9437.271	" 8.	Inspection of crossing, Donlands Station, mileage 93.65. Toronto section, C.P.R.
9437.272	" 8.	Inspection of crossing, mileage 81.28, Toronto section, C.P.R.
9437.273	" 8.	Inspection of crossing at Manvers road, Pontypool, C.P.R.
9437.274	" 8.	Inspection of crossing, 1st west of Norval station, on G.T.R. Town line highway dividing Counties Halton and Peel, and Townships of Esquising and Chinguacousy.
9437.280	" 8.	Inspection of crossing at Colborne ave., Chatham, Ont., C.P.R.
9437.281	" 8.	King street, inspection of crossing, Chatham, Ont., C.P.R.
9437.282	" 8.	Inspection of crossing at William street, Chatham, Ont., C.P.R.
9437.284	" 8.	Inspection of crossing at Raleigh street, Chatham, Ont., C.P.R.
9437.285	" 8.	Inspection of crossing at Claire ave., Chatham, Ont., C.P.R.
9437.286	" 8.	Inspection of crossing at La Croix, Chatham, Ont., C.P.R.
9437.283	" 8.	Inspection of crossing at Wellington Street, Chatham, Ont., C.P.R.
9437.287	" 8.	Inspection of crossing at Centre Street, Chatham, Ont., C.P.R.

SESSIONAL PAPER No. 20c

LIST OF INSPECTIONS of Highway Crossings. April 1, 1909, to March 31, 1910—*Con.*

Reference to Record Number.	Date.	Crossings.
	1910.	
9437.295	Mar. 8.	Inspection of crossing Rink Street, Peterboro, Ont., C.P.R.
9437.296	" 8..	Inspection of crossing Stewart Street, Peterboro, Ont., C.P.R.
9437.299	" 11..	Inspection of crossing Queen Street, Chatham, Ont., C.P.R.
9437.304	" 11..	Inspection of crossing mileage 117, third crossing west of West Shefford Station in County of Shefford, C.P.R.
9437.306	" 15..	Inspection of crossing, Laggan Road, G.T.R., in village of Alexandria.
9437.32	.....	Inspection of first public crossing east of Vankleek Hill, C.P.R.
9437.80	.....	Inspection of Dennison Ave., crossing York Twp., Ont., C.P.R.
9437.155	Jan. 19..	Inspection of crossing at Elizabeth Street, Toronto, Ont., C.P.R.
9437.158	" 21..	Inspection of highway crossing at Scarboro Junction. G.T.R.
9437.174	" 25..	Inspection of crossing known as Port Flamboro Road, crossing G.T.R. just east of station at Waterdown.
9437.175	Feb. 11..	Inspection of highway crossing at Valleyfield, Que., known as Le Grande Ile., G.T.R.
9437.178	" 15..	Inspection highway crossing at Oakville and Port Credit, Ont., G.T.R.
9437.188	" 22..	Inspection of highway crossing at Chateauguay, on New York Central and Hudson River Railway.
9437.189	" 22..	Inspection highway crossing at Huntingdon, Que., on New York Central & Hudson River Railway, Que.
9437.191	Mar. 4..	Inspection highway crossing just east of Breslau station, Ont., G.T.R.
9437.192	" 3..	Inspection highway crossing west of station at Rockwood, Ont., G.T.R.
9437.194	Feb. 28..	Inspection 1st public crossing west of the Grand Trunk station at River Beaudette, G.T.R.
9437.196	" 28..	Inspection 1st highway crossing west of Mille Roches, G.T.R.
9437.197	" 28..	Inspection 2nd highway crossing west of Iroquois, G.T.R.
9437.199	" 28..	Inspection 1st level crossing east of Ernestown, G.T.R.
9437.200	" 28..	Inspection Kennedy road crossing, $\frac{3}{4}$ mile west of Scarboro Junction, G.T.R.
9437.201	Mar. 8..	Inspection crossing, mileage 27.5 Teeswater branch, road allowance between lots 16 and 17, Township of Arthur, Cty. Wellington.
9437.222	" 4..	Inspection 1st crossing east of Mallorytown, Ont., G.T.R.
9437.224	Feb. 26..	Inspection York Road crossing, Guelph & Goderich Branch mileage 13.7, C.P.R.
9437.227	" 28.	Inspection Ingersoll Ave., Mileage 87.9, City of Woodstock, C.P.R.
9437.228	" 28..	Inspection crossing at Dundas Street mileage 88.5, City of Woodstock, Ont., C.P.R.
9437.236	" 28..	Inspection Thomas Street, mileage, 20.67, Village of Streetville, Ont., C.P.R.
9437.254	Mar. 9..	Inspection side road highway crossing, $1\frac{3}{4}$ miles east of Shakespeare, County Perth. G.T.R.
9437.255	" 9..	Inspection 1st highway crossing west of Mosborough Station, G.T.R.
9437.256	" 8..	Inspection road crossing mileage 11.05 continuation of Craig Street, Perth, Ont., C.P.R.
9437.257	" 8..	Inspection Irwin street, Perth, Ont., C.P.R.
9437.259	" 8..	Inspection concession road Township of Ops, Lindsay Branch, north of Lindsay, C.P.R.
9437.265	" 8..	Inspection Aylmer street crossing, Peterboro on line C.P.R.

1 GEORGE V., A. 1911

LIST OF INSPECTIONS of Highway Crossings, April 1, 1909, to March 31, 1910—*Con.*

Reference to Record Number.	Date.	Crossings.
	1910.	
9437.268	Mar. 18..	Inspection of crossing mileage 70, Toronto section, C.P.R.
9437.269	" 8..	Inspection 1st public crossing immediately east of Mountain Grove station, County Frontenac, Township Olden, C.P.R.
9437.288	Feb. 28..	Inspection crossing at Adelaide street, mileage 113.72, City of London, Ont., C.P.R.
9437.289	" 28..	Inspection crossing at William street, London, Ont., C.P.R.
9437.290	" 28..	Inspection crossing at Maitland street, London, Ont., C.P.R.
9437.291	" 28..	Inspection crossing at Colborne street, London, Ont., C.P.R.
9437.292	" 28..	Inspection crossing at Waterloo street, London, Ont., C.P.R.
9437.293	" 28..	Inspection crossing at George street, London, Ont., C.P.R.
9437.297	Mar. 8..	Inspection crossing at Romaine street, City of Peterboro, Ont., C.P.R.
9437.298	" 8..	Inspection crossing at Monaghan road, Peterboro, Ont., C.P.R.
9437.307	" 15..	Inspection highway crossing 1st south of St. Remi station, G.T.R.
9437.308	" 15..	Inspection crossing first highway north on G.T.R. at Lacadie, County of St. Johns.
9437.309	" 15..	Inspection first crossing north of Laprairie station, G.T.R., County of Laprairie.
9437.310	" 15..	Inspection first highway crossing south of G. T. station, St. Lambert, County of Chambly, P.Q., G.T.R.
9437.311	" 15..	Inspection Division street, Cobourg, Ont., G.T.R.
9437.313	" 15..	Inspection highway crossing at mileage 20.6, Newport section C.P.R., about one mile west of Sutton Village.
9437.314	" 15..	Inspection crossing on C.P.R. at mileage 18.8, Newport section, Sutton Township.
9437.316	" 17..	Inspection of public road crossing, mileage 66.1 (Markdale, Ont.) Tp. Glenelg, Cty. Grey, C.P.R.
9437.317	" 17..	Inspection crossing at mileage 88.6 between lots 12 and 13, concession 12, Township of Sydenham, County of Grey, C.P.R.
9437.318	" 17..	Inspection crossing mileage 7.8 side road between lots 20 and 21, concession 5, Township of York, County York, C.P.R.
9437.321	" 18..	Inspection crossing of Bond street, on line of the C.P.R., in Town of Galt.
9437.322	" 16..	Inspection crossing of Town line between Township of Proton and Artemesia, County of Grey, C.P.R.
9437.323	" 3..	Inspection of crossing, 1st public highway east of station, G.T.R.
9437.324	" 3..	Inspection of crossing at Beaconsfield, 1st crossing east of station, G.T.R.
9437.325	" 3..	Inspection crossing 1st highway east of station, at River Beaudette, Que., G.T.R.
9437.326	" 3..	Inspection public crossing about one mile west of Lancaster station, Cty. Glengary, G.T.R.
9437.327	" 3..	Inspection crossing, 1st east of station at Lansdowne, G.T.R.
9437.320	" 18..	Inspection Dundas and Waterloo road, Ontario Division C.P.R., Town of Galt, Ont.
9437.312	" 15..	Inspection of D'Arcy street crossing, Cobourg, Ont., G.T.R.
9437.328	" 3..	Inspection crossing two miles west of Ernestown Station, G.T.R.
9437.329	" 3..	Inspection crossing town line one mile east of Trenton, Ont., G.T.R.
9437.330	" 3..	Inspection of Kingston road crossing about 3½ miles west of Trenton, Ont., G.T.R.
9437.331	" 3..	Inspection crossing three miles east of Brighton, Ont., G.T.R.

SESSIONAL PAPER No. 20c

LIST OF INSPECTIONS of Highway Crossings, April 1, 1909, to March 31, 1910—*Con.*

Reference to Record Number.	Date.	Crossings.
	1910.	
9437.332	Mar. 3..	Inspection crossing two miles east of Cobourg, Kingston road, G.T.R.
9437.333	" 3..	Inspection of crossing Wharf road, Bowmanville, Ont., G.T.R.
9437.334	" 3..	Inspection of crossing, Shipman road, one mile east of Oshawa, Ont., G.T.R.
9437.335	" 3..	Inspection crossing known as No. 4 side road, Tp. Mosa, about two miles west of Glencoe on the G.T.R.
9437.336	.....	Inspection highway crossing at mileage 21.5, Prescott branch, C.P.R., Tp. Osgoode, Cty. Carleton.
9437.337	.....	Inspection crossing on 7 C.P.R. at mileage 37.3 District No. 4, between Townships of Edwardsburg and Oxford, Cty. Grenville.
9437.338	.....	Inspection of highway crossing, eight telegraph poles north of mileage 2, Maniwaki branch C.P.R., Township Hull, Cty. Wright.
9437.339	.. .. .	Inspection of first crossing west of Leonard, Montreal and Ottawa section, C.P.R.
9437.340	.. .. .	Inspection of highway crossing, mileage 6.38, C.P.R., Tp. Nepean.
9437.341	.... .	Inspection highway crossing C.P.R. at mileage 5.17, District No. 4, Cty. Halton, Tp. Nepean.
9437.346	Mar. 23..	Inspection Laframboise street crossing in town of St. Hyacinthe, Que., G.T.R.
9437.347	" 23..	Inspection crossing Grand Ligne, 1st north of the station, Village of Ligne, Cty. St. Johns, Que., G.T.R.
9437.349	" 23..	Inspection of crossing 1½ miles south of Lacolle Junction, Parish of Lacolle, Cty. St. Johns, Que., G.T.R.
9437.350	" 23..	Inspection crossing first east of St. Madeline Station, Cty. St. Hyacinthe, Que., G.T.R.
9437.351	" 23..	Inspection crossing west of Stanford Station, Parish of Stanford, Que., on G.T.R.
9437.352	" 23..	Inspection crossing (Centre Town crossing), Village of Stanford, Cty. Arthabaska, Que., G.T.R.
9437.357	" 23..	Inspection crossing first west of G.T.R. station St. Rosalie Junction, Que., G.T.R.
9437.359	" 23..	Inspection crossing (Gun Club) 1½ miles west of Sherbrooke, Que., G.T.R.
9437.360	" 23..	Inspection crossing first west of Bramptonville station, Que., G.T.R.
9437.361	" 23..	Inspection crossing east end of Windsor Mills Station, village of Windsor Mills, Que., G.T.R.
9437.364	" 23..	Inspection 2nd crossing east of Upton station, road known as "20 eme Rang D'Upton," Cty. Bagot, Que., G.T.R.
9437.365	" 22..	Inspection crossing at Mill street, near Berkely Street diamond, City of Toronto, C.P.R..
9437.366	" 29..	Inspection crossing at four miles south of Elora, Ont., G.T.R.
9437.372	" 22..	Inspection of crossing at Yonge street, south of depot at Harrison, Ont., G.T.R.
9437.373	... ..	Inspection crossing, 1st public crossing, ½ mile south of Wingham Junction, County Huron, G.T.R.
9437.374	.....	Inspection Josephine street crossing, just north of station at Wingham, Ont., on G.T.R.
9437.375	.....	Inspection 1st public crossing south of depot at Henfryn, Tp. of Grey, Cty. Huron, on G.T.R.
9437.376	.....	Inspection of Saugeen public road crossing two miles south of Kincardine, Cty. Bruce, G.T.R.
9437.377	.... .	Inspection Hunter's Crossing, Town of Galt, G.T.R.
9437.378	.....	Inspection public crossing 5 miles west of town line of Bright, Township of East Zorra, County Huron, G.T.R.
9437.379	.....	Inspection St. Johns Crossing, 2 miles East of Clinton, Co. Huron, G.T.R.
9437.380	.....	Inspection road crossing 1½ miles south of Dunkeld, Co. Brant, G.T.R.

LIST OF INSPECTIONS of Highway Crossings, April 1, 1909, to March 31, 1910—*Con.*

Reference to Record Number.	Date.	Crossing.
	1910.	
9437.381	Inspection Pacific Avenue crossing $\frac{1}{4}$ mile west of Mile End Station, Town of St. Louis, now annexed to City of Montreal, County Maissonneuve, C.P.R.
9437.382	Inspection Groh public crossing $1\frac{1}{4}$ miles south of Hespeler, County Waterloo, G.T.R.
9437.383	Inspection crossing 2 miles west of Clinton, County Huron, G.T.R.
9437.384	Inspection Waterloo road crossing, $3\frac{1}{2}$ miles north of Hespeler, Township Guelph, County Wellington, G.T.R.
9437.385	Inspection crossing $\frac{1}{2}$ mile south Paisley, County Bruce, G.T.R.
9437.387	Inspection 1st public road crossing north of depot at Fultons, Township Minto, G.T.R.
9437.388	Inspection 1st public crossing south of station at Drew, Tp. Minto, G.T.R.
9437.389	Inspection St. George street crossing south of Fergus street, G.T.R.
9437.390	Inspection public crossing $1\frac{1}{2}$ miles north of Mildmay, G.T.R.
9437.391	Inspection Berkley street crossing, G.T.R., at Galt, Ont.
9437.392	Inspection second highway crossing west of Brook, C.P.R., between lots 18 and 19, concession 6 and 7, County Russell.
9437.397	Inspection of first highway crossing south of Hawkesbury, County Prescott, G.T.R.
9437.396	Inspection 2nd public crossing west of Moose Creek Station, Co. Glengarry, Tp. Roxboro', G.T.R.
9437.398	Inspection of highway crossing (2nd) $1\frac{1}{2}$ miles south of Hawkesbury branch, Co. Prescott, G.T.R.
9437.400	Inspection Thomas street crossing, Arnprior, Ont., G.T.R.
9437.401	Inspection Fergusons crossing 2 miles east of Adamston, G.T.R.
9437.402	Inspection Murray street crossing, Pembroke, G.T.R.
9437.403	Inspection John street crossing, Almonte, Ont., C.P.R.
9437.404	Inspection Peter street crossing, on line of C.P.R., Co. Renfrew.
9437.405	Inspection 1st public crossing west of Stittsville, C.P.R.
9437.406	Inspection of Franklin Road Crossing, Carleton Place, Ont., C.P.R.
9437.407	Inspection John street crossing, Arnprior, Ont., Chalk River Section, C.P.R.
9437.408	Inspection Daniel street crossing, Arnprior, Ont., C.P.R.
File 4637. . .) Case 1341. . .)	Inspection public crossing south of Chesley, County of Bruce, G.T.R.

SESSIONAL PAPER No. 20c

APPENDIX G.

STAFF OF THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA
FOR YEAR ENDING MARCH 31, 1909.

TRAFFIC DEPARTMENT.

Name.	Occupation.	Appointment.	Amount.
			\$
James Hardwell.....	Traffic expert.....	June 22, 1904...	4,300 00
G. A. Brown.....	Chief clerk.....	Oct. 3, 1904...	2,000 00
C. F. McManus.....	Clerk.....	Sept. 1, 1904...	1,200 00
C. C. Routhier.....	".....	Aug. 14, 1906...	1,100 00
H. W. Messinger.....	".....	July 8, 1904...	1,000 00
J. S. Allen.....	".....	May 6, 1907...	1,000 00
G. T. Riddell.....	".....	" 1, 1905...	1,000 00
F. Lalonde.....	".....	" 6, 1907...	1,000 00
J. R. Usher.....	".....	" 6, 1907...	850 00
W. G. R. Wainwright.....	".....	Apr. 27, 1909...	800 00
C. Chapman.....	".....	" 11, 1907...	700 00

ENGINEERING DEPARTMENT.

G. A. Mountain.....	Engineer.....	June 30, 1904...	4,800 00
T. L. Simmons.....	Assistant engineer.....	Oct. 3, 1904...	2,600 00
H. A. K. Drury.....	".....	June 25, 1906...	2,600 00
*N. Cauchon.....	".....	July 1, 1908...	2,500 00
John Murphy.....	Electrical.....	May 15, 1906...	1,600 00
J. R. Foulds.....	Clerk.....	Oct. 14, 1906...	800 00
E. M. Cameron, Miss.....	Stenographer.....	July 20, 1904...	750 00

RECORD DEPARTMENT.

E. W. McNeill.....	Record officer.....	Feb. 8, 1909...	1,500 00
J. W. Thomson.....	Clerk.....	Sept. 1, 1904...	1,200 00
C. S. Huband.....	".....	May 1, 1905...	1,000 00
W. A. Jamieson.....	".....	Aug. 14, 1906...	850 00
J. E. Martin.....	".....	May 6, 1907...	800 00
T. G. Britton.....	".....	" 6, 1907...	800 00
D. I. Langelier.....	".....	July 20, 1904...	800 00
F. R. Demers.....	".....	Aug. 14, 1905...	800 00

SECRETARY'S DEPARTMENT.

E. A. Primeau.....	Assistant secretary.....	May 7, 1904...	2,500 00
A. E. Ecclestone.....	Chief clerk.....	Aug. 14, 1906...	1,300 00
A. Lapointe.....	Chief clerk and acct.....	May 6, 1907...	900 00
J. B. Arbick.....	Clerk.....	Dec. 23, 1904...	800 00
G. F. Perley.....	Clerk and stenographer..	Jan. 2, 1908...	800 00
A. Larocque.....	".....	Dec. 31, 1908...	800 00
T. H. Casey.....	".....	Aug. 10, 1909...	650 00
B. Chevrier, Miss.....	Stenographer.....	July 20, 1904...	900 00
E. A. H. Barber.....	".....	May 8, 1907...	650 00
I. M. Vogan.....	".....	Dec. 22, 1909...	600 00

* Resigned March 31, 1910.

OPERATING DEPARTMENT.

Name.	Occupation.	Appointment.	Amount.
			\$ cts.
A. J. Nixon.....	Chief operating officer	Oct. 1, 1909.....	3,600 00
E. C. Lalonde.....	Inspector.....	July 20, 1904.....	2,200 00
Jas. Ogilvie.....	".....	May 4, 1907.....	2,200 00
M. J. McCaul.....	".....	May 6, 1907.....	2,100 00
W. S. Blyth.....	".....	" 6, 1907.....	2,100 00
A. F. Dillinger.....	Asst. chief operating officer.....	April 6, 1907.....	1,900 00
Jas. Clarke.....	Inspector.....	May 6, 1907.....	1,800 00
J. H. Shinnick.....	".....	Dec. 31, 1909.....	1,200 00
N. F. O'Connor.....	Clerk and stenographer	Dec. 22, 1909.. ..	700 00
G. M. O'Connor.....	Stenographer.....	Dec. 31, 1908.....	550 00

LAW DEPARTMENT.

A. G. Blair.....	Law clerk.....	July 20, 1904.....	2,600 00
R. Larose (Miss).....	Stenographer and librarian.....	May 1, 1905.....	800 00

PRIVATE SECRETARY TO CHIEF COMMISSIONER.

R. Richardson.....	May 1, 1905.....	2,000 00
--------------------	-------	------------------	----------

STENOGRAPHERS.

L. J. Lewis (Miss).....	.....	May 7, 1904.....	800 00
N. Casey.....	.....	Dec. 31, 1908.....	700 00
M. Hache.....	.....	Dec. 31, 1907.....	550 00
M. G. Ross.....	.....	Sept. 11, 1909.....	600 00

MESSENGERS.

T. Chandler.....	Chief messenger and court usher.....	May 15, 1904.....	800 00
T. D. Latour.....	Messenger.....	Dec. 21, 1907.....	550 00
E. S. Barbeau.....	".....	Sept. 11, 1909.....	600 00

CAR 'ACADIA.'

G. Taylor.....	Cook.....	From April 1, 1909, to Aug. 21, at \$70 per month.....	350 00
A. Hamerton.....	Cook.....	From July 13, 1909, to March 31, 1910, at \$75 per month.....	645 00

CLERKS EMPLOYED TEMPORARILY.

O. O'Regan.....	Stenographer.....	From April 1 to Sept. 4, 1909, at \$2 per day.....	244 00
R. Turcotte (Miss).....	".....	Aug. 27 to Sept. 2, 1909, at \$2 per day.....	10 00
F. T. Thompson.....	Clerk.....	Sept. 27 to Nov. 15, 1909, at \$2 per day.....	88 00
L. Rochon.....	Stenographer.....	Oct. 7, 1909, to Jan. 25, 1910, at per day.....	154 00
Stephen Wallace.....	Porter.....	Oct. and Nov., at \$2 per day.....	86 00
M. McMillan (Miss).....	Stenographer.....	Feb. 11 to March 31, 1910, at \$2 per day.....	80 00
H. Bliss (Miss).....	Copyist.....	Feb. 12 to March 31, 1910, at \$2 per day.....	78 00
D. H. Chambers.....	Stenographer.....	March 14 to 31, 1910, at \$2 per day.....	30 00

SESSIONAL PAPER No. 20c

APPENDIX H.

RULES AND REGULATIONS, MAY 1, 1909.

Meeting at Ottawa, Monday, the 19th Day of April, A.D. 1909.

The Board, in virtue of the provisions of the Railway Act, hereby makes the following Rules and Regulations:—

PUBLIC SESSIONS.

1. For the hearing of matters, applications or complaints other than those relating to rates and traffic matters, a sittings will be held at the offices of the Board at Ottawa, Ontario, at 10 a.m., on the first Tuesday in every month, and for hearing all matters, applications and complaints relating to rates and traffic matters, a sittings will be held at the place and hour aforesaid on the third Tuesday in every month.

(a) In addition to its regular sittings, the Board may appoint special sittings at Ottawa and elsewhere.

INTERPRETATION.

2. In the construction of these rules, and the forms herein referred to words importing the singular number shall include the plural, and words importing the plural number shall include the singular number; and the following terms shall (if not inconsistent with the context or subject) have the respective meanings hereinafter assigned to them; that is to say: 'Application' shall include complaint under this Act; 'Respondent' shall mean the person or company who is called upon to answer to any application or complaint; 'Affidavit' shall include affirmation; and 'Cost' shall include fees, counsel fees and expenses.

APPLICATION OR COMPLAINT.

3. Every proceeding before the Board under this Act shall be commenced by an application made to it, which shall be in writing and signed by the applicant or his solicitor; or in case of a corporate body or company being the applicants shall be signed by their manager, secretary or solicitor. It shall contain a clear and concise statement of the facts, the grounds of application, the section of the Act under which the same is made, and the nature of the order applied for, or the relief or remedy to which the applicant claims to be entitled. It shall be divided into paragraphs, each of which, as nearly as possible, shall be confined to a distinct portion of the subject, and every paragraph shall be numbered consecutively. It shall be endorsed with the names and address of the applicant, or if there be a solicitor acting for him in the matter, with the name and address of such solicitor. The application shall be according to the forms in schedule No. 1.

The application, so written and signed as aforesaid, shall be left with or mailed to the secretary of the Board, together with a copy of any document, or copies, of any maps, plans, profiles and books of reference, as required under the provisions of the Act, (a) referred to therein, or which may be useful in explaining or supporting the same. The secretary shall number such applications according to the order in which they are received by him, and make a list thereof. From the said list there shall be

(a) For further particulars of plans, &c., see regulations in Appendix.

1 GEORGE V., A. 1911

made up a docket of cases for hearing which, as well as their order of entry on the docket, shall be settled by the Board. Said docket list when completed to be put upon a notice board provided for that purpose, which shall be open for inspection at the office of the secretary during office hours.

ANSWER.

4. Unless the Board otherwise directs, the respondent or respondents shall mail or deliver to the applicant, or his solicitor, a written statement containing in a clear and concise form their answer to the application, and shall also leave or mail a copy thereof with or to the Secretary of the Board at its office, together with any documents that may be useful in explaining or supporting it. The answer may admit the whole or any part of the facts in the application. It shall be divided into paragraphs, which shall be numbered consecutively, and it shall be signed by the person making the same, or his solicitor. It shall be endorsed with the name and address of the respondents, or if there be a solicitor acting for them in the matter, with the name and address of such solicitor.

(a) The time limit for filing and delivery of answer shall be as follows: Where the subject matter of the complaint arises east of Port Arthur, Ont.; fifteen days; between Port Arthur and the western boundary of the province of Saskatchewan, twenty days; and west thereof, thirty days.

REPLY.

5. Within four days from the delivery of the answer to the application, the applicant shall mail or deliver a reply thereto to the respondents, and a copy thereof to the Secretary of the Board, and may object to the said answer as being insufficient stating the grounds of such objection, or deny the facts stated therein, or may admit the whole or any part of said facts. The reply shall be signed by the applicant or his solicitor, and may be according to form No. 3 in the said schedule.

The Board may, at any time, require the whole or any part of the application answer or reply, to be verified by affidavit, upon giving a notice to that effect to the party from whom the affidavit is required; and if such notice be not complied with the application, answer or reply may be set aside, or such part of it as is not verified according to the notice may be struck out.

SUSPENSION OF PROCEEDINGS.

6. The Board may require further information, or particulars, or documents from the parties, and may suspend all formal proceedings until satisfied in this respect.

If the Board, at any stage of the proceedings, think fit to direct inquiries to be made under any of the provisions of this Act, it shall give notice thereof to the parties interested, and may stay proceedings or any part of the proceedings thereon accordingly.

NOTICE.

7. In all proceedings under this Act, where notice is required, a copy or copies of said proceeding, or proceedings, for the purpose of service, shall be endorsed with notice to the parties in the forms of endorsement set forth in schedules Nos. 1 and 2; and in default of appearance the Board may hear and determine the application *ex parte*.

Endorsements shall be signed in accordance with the provisions of Section 41.

SESSIONAL PAPER No. 20c

The Board may enlarge or abridge the periods for putting in the answer or reply, and for hearing the application, and in that case the period shall be endorsed in the notice accordingly.

Except in any case where it is otherwise provided, ten days' notice of any application to the Board, or of any hearing by the Board, shall be sufficient; unless, in any case, the Board directs longer notice. The Board may, in any case, allow notice for any period less than ten days, which shall be sufficient notice as if given for ten days or longer (Section 43).

Notice may be given or served as provided by Section 41 of the Act.

When the Board is authorized to hear an application or make an order, upon notice to the parties interested, it may, upon the ground of urgency, or for other reason appearing to the Board to be sufficient notwithstanding any want of or insufficiency in such notice, make the like order or decision in the matter as if due notice had been given to all parties; and such order or decision shall be as valid and take effect in all respects as if made on due notice; but any person entitled to notice, and not sufficiently notified may, at any time within ten days after becoming aware of such order or decision, or within such further time as the Board may allow, apply to the Board to vary, amend, or rescind such order or decision; and the Board shall thereupon, on such notice to all parties interested as it may in its discretion think desirable, hear such application, and either amend, alter, or rescind such order or decision, or dismiss the application, as may seem to it just and right. (Section 45.)

(a) Any party to any matter, application, or complaint pending before the Board may set the same down for hearing at the next monthly sitting of the Board, upon giving at least ten days, or such shorter notice as the Board may order, to all parties interested.

(b) When contested matters, applications, or complaints are ready for hearing and are not at once set down by any party interested, the Secretary shall set the same down for the first sittings commencing after the expiration of ten days (or such shorter notice as the Board may order) from the date of such setting down.

(c) When a matter, application, or complaint is set down for hearing by the Secretary, he shall give ten days' notice of hearing (or such shorter time as the Board may order) to all parties interested.

CONSENT CASES.

8. In all cases the parties may, by consent in writing with the approval of the Board, dispense with the form of proceedings herein mentioned, or some portion thereof.

POWER TO DIRECT AND SETTLE ISSUES.

9. If it appears to the Board at any time that the statements in the application, or answer, or reply do not sufficiently raise or disclose the issues of fact in dispute between the parties, it may direct them to prepare issues, and such issues shall, if the parties differ, be settled by the Board.

PRELIMINARY QUESTIONS OF LAW.

10. If it appears to the Board at any time that there is a question of law which it would be convenient to have decided before further proceeding with the case, it may direct such question to be raised for its information, either by special case or in such other manner as it may deem expedient, and the Board may, pending such decision, order the whole or any portion of the proceeding before the Board in such matter, to be stayed.

PRELIMINARY MEETING.

11. If it appears to the Board at any time before the hearing of the application that it would be advantageous to hold a preliminary meeting for the purpose of fixing or altering the place of hearing, determining the mode of conducting the inquiry, the admitting of certain facts or the proof of them by affidavit, or for any other purpose, the Board may hold such meeting upon such notice to the parties as it deems sufficient; and may thereupon make such orders as it may deem expedient.

PRELIMINARY EXAMINATION WITH THE PARTIES.

12. The Board may, if it thinks fit, instead of holding the preliminary meeting, provided for in Rule 11, communicate with the parties direct, and may require answers to such inquiries as it may consider necessary.

PRODUCTION AND INSPECTION OF DOCUMENTS.

13. Either party shall be entitled, at any time, before or at hearing of the case, to give notice in writing to the other party in whose application, or answer, or reply reference was made to any document, to produce it for the inspection of the party giving such notice, or his solicitor, and to permit him to take copies thereof; and any party not complying with such notice shall not afterwards be at liberty to put in such documents in evidence on his behalf in said proceedings, unless he satisfy the Board that he had sufficient cause for not complying with such notice.

NOTICE TO PRODUCE.

14. Either party may give to the other a notice in writing to produce such documents as relate to any matter in difference (specifying the said documents), and which are in the possession or control of such other party; and if such notice be not complied with, secondary evidence of the contents of the said documents may be given by or on behalf of the party who gave such notice.

15. Either party may give to the other party a notice in writing to admit any documents, saving all just exceptions, and in case of neglect to admit, after such notice, the cost of proving such documents shall be paid by the party so neglecting or refusing, whatever the result of the application may be; unless, on the hearing, the Board certifies that the refusal to admit was reasonable; and no costs of proving any document shall be allowed, unless such notice be given, except where the omission to give the notice is, in the opinion of the Board, a saving of expense.

WITNESSES.

16. The attendance and examination of witnesses, the production and inspection of documents, shall be enforced in the same manner as is now enforced in a Superior Court of Law; and the proceedings for that purpose shall be in the same form, *mutatis mutandis*, and they shall be sealed by the Secretary of the Board with the seal and may be served in any part of Canada. (Section 26.)

Witnesses shall be entitled, in the discretion of the Board, to be paid the fees and allowances prescribed by schedule No. 4, annexed hereto.

THE HEARING.

17. The witnesses at the hearing shall be examined *viva voce*; but the Board may, at any time, for sufficient reason, order that any particular facts may be proved by affidavit, or that the affidavit of any witnesses may be read at the hearing on such conditions as it may think reasonable; or that any witnesses whose attendance ought, for some sufficient reason, to be dispensed with, be examined before a Commis-

SESSIONAL PAPER No. 20c

sioner appointed by it for that purpose, who shall have authority to administer oaths, and before whom all parties shall attend. The evidence taken before such Commissioner shall be confined to the subject matter in question, and any objection to the admission of such evidence shall be noted by the Commissioner and dealt with by the Board at the hearing. Such notice of the time and place of examination as is prescribed in the order shall be given to the adverse party. All examinations taken in pursuance of any of the provisions of the Act, or of these rules, shall be returned to the Court; and the depositions certified under the hands of the person or persons taking the same may, without further proof, be used in evidences, saving all just exceptions. The Board may require further evidence to be given either *viva voce* or by deposition, taken before a Commissioner or other person appointed by it for that purpose.

The Board may, in any case when deemed advisable, require written briefs to be submitted by the parties.

The hearing of the case, when once commenced, shall proceed, so far as in the judgment of the Board may be practicable, from day to day.

JUDGMENT OF THE BOARD.

18. After hearing the case the Board may dismiss the application, or make an order thereon in favour of the respondents, or reserve its decision, or (subject to the right of appeal in the Act mentioned) make such other order on the application as may be warranted by the evidence and may seem to it just.

The Board may give verbally or in writing the reasons for its decisions. A copy of the order made thereon shall be mailed or delivered to the respective parties. It shall not be necessary to hold a court merely for the purpose of giving decisions.

Any decision or order made by the Board under this Act may be made an order of the Exchequer Court, or a rule, order, or decree of any Superior Court of any province of Canada, and shall be enforced in like manner as any rule, order, or decree of such court. To make such decision or order a rule, order or decree of such court, the usual practice and procedure of the court in such matters may be followed, or in lieu thereof the form prescribed in subsection 2, section 46, of the Act.

The Board shall with respect to all matters necessary or proper for the due exercise of its jurisdiction under this Act, or otherwise for carrying this Act into effect, have all such powers, rights and privileges as are vested in a Superior Court. (Section 26.)

ALTERATION OR RESCINDING OF ORDERS.

19. Any application to the Board to review, rescind, or vary any decision or order made by it shall be made within thirty days after the said decision or order shall have been communicated to the parties, unless the Board think fit to enlarge the time for making such application, or otherwise orders.

APPEAL.

20. If either party desire to appeal to the Supreme Court of Canada from the decision or order of the Board upon any question which, in the opinion of the Board, is a question of law, he shall give notice (c) thereof to the other party and to the Secretary, within fourteen days from the time when the decision or order appealed from was made, unless the Board allows further time, and shall in such notice state the grounds of the appeal. The granting of such leave shall be in the discretion of the Board.

For procedure upon such leave being obtained see section 56, subsection 4 *et seq.* of the Act.

1 GEORGE V., A. 1911

An appeal shall lie from the Board to the Supreme Court of Canada upon a question of jurisdiction; but such appeal shall not lie unless the same is allowed by a judge of the said court upon application and hearing the parties and the Board.

The cost of such application shall be in the discretion of the judge.

INTERIM EX PARTE ORDERS.

21. Whenever the special circumstances of any case seem to so require, the Board may make interim *ex parte* order requiring or forbidding anything to be done which the Board would be empowered upon application, notice and hearing to authorize, require or forbid. No such interim order shall, however, be made for a longer time than the Board may deem necessary to enable the matter to be heard and determined. (Section 49.)

AFFIDAVITS.

22. Affidavits of service according to the form No. 6 shall forthwith, after service, be filed with the Board in respect of all documents or notices required to be served under these rules; except when notice is given or served by the Secretary of the Board, in which case no affidavit of service shall be necessary..

All persons authorized to administer oaths to be used in any of the Superior Courts of any province, may take affidavits to be used on any application to the Board.

Affidavits used before the Board, or in any proceeding under this Act, shall be filed with the Secretary of the Board at this office.

Where affidavits are made as to belief, the grounds upon which the same are based must be set forth.

(c) For form of notice see Form No. 5 in the schedule hereto

COMPUTATION OF TIME.

23. In all cases in which any particular number of days, not expressed to be clear days, is prescribed by this Act, or by these rules, the same shall be reckoned exclusively of the first day and inclusively of the last day, unless the last day shall happen to fall on a Sunday, Christmas Day, or Good Friday, or a day appointed for a public fast or thanksgiving in the Dominion or any of the provinces, in which case the time shall be reckoned exclusively of that day also.

ADJOURNMENT.

24. The Board may, from time to time, adjourn any proceedings before it

AMENDMENT.

25. The Board may at any time allow any of the proceedings to be amended, or may order to be amended or struck out any matters which, in the opinion of the Board, may tend to prejudice, embarrass, or delay a fair hearing of the case upon its merits; and all such amendments shall be made as may, in the opinion of the Board, be necessary for the purpose of hearing and determining the real question in issue between the parties.

FORMAL OBJECTIONS.

26. No proceedings under this Act shall be defeated or affected by any technical objections or any objections based upon defects in form merely.

PRACTICE OF EXCHEQUER COURT WHEN APPLICABLE.

27. In any case not expressly provided for by this Act, or these rules, the general principles of practice in the Exchequer Court may be adopted and applied, at the discretion of the Board, to proceedings before it.

SESSIONAL PAPER No. 20c

COSTS.

28. The costs of and incidental to any proceedings before the Board shall be in the discretion of the Board, and may be fixed in any case at a sum certain, or may be taxed. The Board may order by whom and to whom the same are to be paid, and by whom the same are to be taxed and allowed.

Schedule No. 1.

(FORMS OF APPLICATION.)

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

Application No. _____ (This No. is to be filled in by the Secretary on receipt.)

A. B. of C. D. hereby applies to the Board for an order under sections 252-253 of The Railway Act, directing the _____ Railway Company to provide and construct a suitable farm crossing where the Company's railway intersects this farm in Lot _____ Con. _____ Tp. _____ County of Ontario, and states—

1. That he is the owner of the land, &c.
2. That by reason of the construction of the said railway he is deprived, &c.
3. That it is necessary for the proper enjoyment of his said land, &c.

Dated this _____ day of _____, A.D., 19 ____.

(Signed A. B.)

Endorsements.

The within application is made by A. B. of _____ (state address and occupation) or by C. D. of _____, his solicitor.

Take notice that within named Railway Company is required to file with the Board of Railway Commissioners within ten days from the service hereof, its answer to the within application.

FORM OF APPLICATION.

(Where no Notice Required.)

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

Application No. _____

The _____ Railway Company hereby applies to the Board for an Order under section 167 of the Railway Act, sanctioning the plans, profiles and books of reference submitted in triplicate herewith, showing a proposed deviation of its line of railway as already constructed between _____ and _____ mileage _____ to _____.

Dated this _____ day of _____, A.D., 19 ____.

(Signed A.B.)

Schedule No. 2.

(FORM OF ANSWER.)

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

In the matter of the Application, No. _____ of A.B. for an order under sections 252-253 of The Railway Act, directing Railway Company to provide a farm crossing.
The said Company in answer to the said application states:--
1. That the said A.B. is not the owner but merely, &c.
2. That upon the acquisition of the right of way of the said Railway, A.B. was duly paid for and released, &c.
3. That the said A. B. has other safe and convenient means, &c.
4. That, &c.
Dated, &c.

Endorsements.

The within answer is made by A. B. of _____ (state address and occupation or by C. D. of _____, his solicitor.
Take notice that the within named Applicant is required to file with the Board of Railway Commissioners within four days from the service hereof, his reply to the within answer.

Schedule No. 3.

(REPLY.)

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

In the matter of the application of A. B., against the Company.
The said A. B., in reply to the answer of the said Company states that:--
1.
2. And the said A. B. admits that
Dated this _____ day of _____, A.D., 19 ____ .
Signed (Q.)

Schedule No. 4.

(FEES AND ALLOWANCES TO WITNESSES.)

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

To witnesses residing within three miles of the Court-room, per diem (not including ferry and meals)... .. \$1 00
Barristers, attorneys, and physicians, when called upon to give evidence in consequence of any professional services rendered by them, or to give professional opinion, per diem... .. 5 00
Engineers, surveyors and architects, when called upon to give evidence of any professional services rendered by them, and to give evidence depending upon their skill and judgment, per diem... .. 5 00
If the witnesses attend in one case only, they will be entitled to the full allowance.
If they attend in more than one case, they will be entitled to a proportionate part in each case only.
When witnesses travel over three miles they shall be allowed expenses according to the sum reasonably and actually paid, which in no case shall exceed twenty cents per mile one way.

SESSIONAL PAPER No. 20c

Schedule No. 5.

(NOTICE OF APPEAL.)

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

In the matter of the application No. _____, of A. B., for an order under sections 252-253 of the Railway Act, authorizing the _____ Railway, &c., &c.
To the Board of Railway Commissioners,
and

To

The above named Applicant (or Respondent, as the case may be).

Take notice that the _____ Company will apply to the Board on the _____ day of _____, (not exceeding 14 days from the date thereof),

for leave to appeal to the Supreme Court of Canada from the Order of the Board, dated the _____ day of _____, in the matter of the above application authorizing the expropriation of certain lands referred to in said Order, and directing that compensation or damages to be awarded to the owners of said lands, or persons interested therein, shall be ascertained as and from the date of the application (or such other time as may be named in this Order).

The grounds of appeal are that as a matter of law, the awarding of such compensation or damages should be ascertained and determined from the date of the deposit of plan, profile, &c., as provided under section 192 of the Act, and not from the time stated in the Order.

Dated this _____ day of _____

Signed.

Solicitor, &c.

Schedule No. 6.

(FORM OF AFFIDAVIT OF SERVICE.)

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

In the matter of the application No. _____, of A. B., for an Order under sections 252-253 of The Railway Act, directing _____ Railway Company to provide a farm crossing.

I, _____, of the City of Ottawa, &c., make oath and say:—

1. That I am a member, &c.

2. That I did on _____, 19____, serve the (C.P.) Railway Company above named, with a true copy of the (application) of the said (A. B.) in this matter by delivering the same to (C. D.), the (Secretary) of the said Company, (or to E.F., the Ass't. to the Gen. Mgr.) of the Company, being an adult person in the employ of the Company, at the head office of the Company in (Montreal), see section 41, (a), which said copy was endorsed with the following notice, viz.:—

(Copy exactly.)

Sworn, &c.

1 GEORGE V., A. 1911

Requirements on Application having Reference to Plans.**No. 1.—GENERAL LOCATION OF RAILWAY.—Section 157.**

Send to Secretary of the Department of Railways and Canals: 3 copies of *map* showing the general location of the proposed line of railway, the termini and the principal towns and places through which the railway is to pass, giving the names thereof, the railways, navigable streams and tide-water, if any, to be crossed by the railway, and such as may be within a radius of thirty miles of the proposed railway, and generally the physical features of the country through which the railway is to be constructed.

1st copy to be examined and approved by the Minister and filed in the Department of Railways and Canals.

2nd copy to be approved by Minister for filing by the Minister with the Board.

3rd copy to be approved by Minister for the company.

Scale of Map—not less than 6 miles to the inch.

No. 2.—PLAN, PROFILE, &C., OF LOCATED LINE.—Section 159.

Upon approval general location map being filed by the Minister with the Board, send to the Secretary of the Board three sets of plans, prepared exactly in accordance with the 'general notes'* as follows:—

1st set—	$\left\{ \begin{array}{l} 1 \text{ plan.} \\ 1 \text{ profile.} \\ 1 \text{ book of reference.} \end{array} \right.$	} For sanction and deposit with the Board.
----------	--	--

2nd set—Same as 1st.—To be certified as copy of original and returned to the company for registration.

3rd set—Same as 1st.—To be certified as copy of original and returned to company.

Scale—Plans—400 feet to the inch.

Profiles	} Horizontal, 400 feet.
	} Vertical, 20 feet.

(N.B.—In prairie country, scale may be 1,000 feet to the inch.)

No. 3.—To ALTER LOCATION OF CURVES OR GRADES OF LINE PREVIOUSLY SANCTIONED OR COMPLETED.—Section 167.

Send to the Secretary of the Board three sets of plans, profiles and books of reference as required in No. 2.

(N.B.—The plans and profiles so submitted will be required to show the original location, grades and curves and railway highway and farm crossings, and the changes desired or necessitated in any of these, giving reason for same. Upon completion of the work application must be made to the Board for leave to operate.

Scale—Same as No. 2.

* General Notes, see pages 17 and 18.

SESSIONAL PAPER No. 20c

No. 4.—PLANS OF COMPLETED RAILWAY.—Section 164

Send to the Secretary of the Board within six months after completion three sets of plans and profiles of the completed road.

1st set to be filed with the Board.

2nd set to be certified as copy of plan filed, and returned to the company.

3rd set to be certified as copy of plan filed. To be returned to the company for registration purposes.

Scale—Same as No. 2.

No 5.—TO TAKE ADDITIONAL LANDS FOR STATIONS, SNOW PROTECTION, ETC.—Section 178.

Send to the Secretary of the Board three sets of plans and documents as follows:—

1st set—	$\left\{ \begin{array}{l} 1 \text{ application sworn to by officers} \\ \text{required to sign and certify} \\ \text{plans. See 'General Notes.'} \\ 1 \text{ plan, 1 profile.} \\ 1 \text{ book of reference.} \end{array} \right\}$	To be examined and certified and deposited with Board.
----------	---	--

2nd set—Same as 1st—For certificate and return for registration, with duplicate authority.

3rd set—Same as 1st—For certificate and return to company, with copy of authority.

Scale—Same as No. 2.

N.B.—Ten days' notice of application must be given by the applicant company to the owner or possessor of the property, and copies of such notice with affidavits of service thereof must be furnished to the Board on the application.

No 6.—BRANCH LINES, NOT EXCEEDING SIX MILES—Sections 221-225.

Where a branch line runs directly from the right-of-way of the railway company onto the property of any person requiring such a line, the four weeks' public notice of application to the Board may be dispensed with. The company must, however, furnish the consent of the owner of the land to the construction of the branch line. (a) 1 plan, profile and book of reference same as No. 2 to be deposited in Registry Office.

Upon such registration four weeks' public notice of application to the Board to be given.

Where such a branch crosses a highway consent of municipality must be furnished with application or evidence of service of 10 days' notice to the municipality with copies of application and plans accompanying same.

Send to the Secretary an application with copies of the plan, profile and book of reference certified by the Registrar as a duplicate of those so deposited in the Registry Office.

After the Board has approved of the plan, &c., a certified copy of the order authorizing the construction of the Branch lines to be registered together with any papers and plans showing changes directed by the Board.

A map showing the adjacent country, neighbouring lines, &c., must be sent to the Secretary of the Board with the application.

Proof of registration, and of public notice except as above mentioned, having been duly given will be required upon the application.

Scale—Same as No. 2.

1 GEORGE V., A. 1911

No. 7—RAILWAY CROSSINGS OR JUNCTIONS.—Section 227.

Send to the Secretary of the Board with an application three sets of plans and profiles of both roads on either side of the proposed crossing for a distance of one mile in each direction.

Scale—Plan—400 feet to the inch.

Profile—400 feet to an inch horizontal; 20 feet to an inch vertical.

1st set for approval by and filing with the Board.

2nd and 3rd sets to be certified and furnished to the respective companies concerned, with certified copy of order.

The applicant company must give ten days' notice of application to the company whose lines are to be crossed or joined, and shall serve with such notice a copy of all plans and profiles and a copy of the application. Upon completion of work application must be made to the Board for leave to operate.

No. 8—HIGHWAY CROSSING—Sections 235 to 243.

Send to the Secretary of the Board with an application three sets of plans and profiles of the crossings.

Scale—Plan—400 feet to inch.

Profile—400 feet to an inch horizontal; 20 feet to an inch vertical.

Profile of highway—100 feet to an inch horizontal; 20 feet to an inch vertical.

1st set for approval by and filing with the Board.

2nd and 3rd sets to be furnished to the respective parties concerned, with a certified copy of the order approving the same.

The plan and profile shall show at least one-half a mile of the railway each way and 300 feet of the highway on each side of the crossing.

Plan must show intervening obstructions to the view from any point on the highway within 100 feet of the crossing to any point on the railway within one-half mile of the said crossing.

If the company prefers, the above information may be shown on the location plan, and this plan may be used in connection with its application for approval of the highway crossing.

The applicant must give ten days' notice of the application and copies of plan to the municipality in which the proposed crossing lies, and furnish Board with proof of service.

1. That, unless otherwise ordered by the Board, the width of approaches to rural railway crossings over highways be twenty feet road surface on concession and main roads and sixteen feet on side and bush roads.
2. That a strong, substantial fence, or railing, four feet six inches high, with a good post-cap (four inches by four inches), a middle piece of timber (1½ inches by 6 inches), and a ten-inch board firmly nailed to the bottom of the posts to prevent snow from blowing off the elevated roadway, be constructed on each side of every approach to a rural railway crossing where the height is six feet or more above the level of the adjacent ground,—leaving always a clear road surface twenty feet wide.
3. That the width of approaches to rural railway crossings made in cuttings be not less than twenty feet clear from bank to bank.
4. That, unless otherwise ordered by the Board, the planking, or paving blocks, or broken stone topped with crushed rock, screenings, on rural railway crossings over highways (between the rails and for a width of at least eight inches on the outer sides thereof) be twenty feet long on concession and main roads and sixteen feet on side and bush roads.

SESSIONAL PAPER No. 20c

No. 9—CROSSINGS WITH TELEGRAPH, TELEPHONE, OR POWER WIRES.—Section 246.

Send to the Secretary of the Board, with the application, a plan and profile in triplicate. The plan must show the location of the track or tracks to be crossed, the location of poles and their perpendicular distance from the track. The profile must show the height of poles, distance between the wires and the rails, and between the different lines of wire.

In the case of crossings with power wires, the details of construction and the method of protection must be shown.

A copy of the plan and profile must be sent to the railway company with notice of application.

In the case of power crossings, application to operate must be made to the Board upon completion of the work.

No. 10—CROSSINGS WITH PIPES FOR DRAINS, WATER SUPPLY, GAS, &c.—Section 250.

Send to the Secretary of the Board, with the application, a plan and profile in triplicate. The plan must show the track or tracks proposed to be crossed. The profile must show the distance between the pipe and the base of rail, the size of the pipe, and the material of which it is constructed. A copy of the plan and profile must be sent to the railway company with notice of application.

No. 11—CROSSINGS AND WORKS UPON NAVIGABLE WATERS, BEACHES, &c.—Section 233.

Upon site and general plans being submitted to Department of Public Works and being approved by the Governor in Council, send to the Secretary of the Board:—Certified copy of order in council with the plans and description approved thereby and so certified—one application and two sets of detail plans, profiles, drawings and specifications.

The plans must show details of construction of piers and their foundations, also details of superstructure, if standard plan of the same has not already been approved.

The profile must show the cross-section of the river or stream at the place of crossing and high and low water marks.

The name of the river or stream and the mileage of the bridge should be given.

Upon completion of work application must be made to the Board for leave to operate.

No. 12—BRIDGES, TUNNELS, VIADUCTS, TRESTLES, ETC., over 18 ft. span—Section 257.

(a) Must be built in accordance with standard specifications and plans, approved of by the Board.

(b) Or detail plans, profiles, drawings and specifications, which may be blue, white or photographic prints, must be sent to the Secretary of the Board for approval, &c., as in No. 11.

Upon completion of the work application must be made to the Board for leave to operate.

No. 13—STATION GROUNDS AND BUILDINGS.—Section 258.

Send to the Secretary of the Board:—

2 set of plans showing the location, and details of structures and yard tracks.

1st set for filing with the Board.

2 sets of plans showing the location, and details of structures and yard tracks.

NOTE.—If approved plans, showing location, &c., of a station, are on file with the Board, and such station were burned, a letter from the company that it intended to erect another station of the same plan and location, would call from the Board an approval and waiver of filing new plans, unless the local conditions had so changed

SESSIONAL PAPER No. 20c

Interlocking System.

Rules governing the use of Interlocking and Derailing Signals and speed of trains where one railway crosses another at rail level, or where a railway crosses a drawbridge.

1. The normal position of all signals must indicate danger.
2. When the distant semaphore indicates caution, the train passing must be under full control and prepared to come to a full stop before reaching the home signal.
3. When the home signal indicates danger, it must not be passed.
4. When clear signals are shown where one railway crosses another at rail level, the speed of passenger trains must be reduced to thirty-five miles an hour and freight trains to twenty miles an hour, until the entire train has passed the crossing.
5. When clear signals are shown where a railway crosses a drawbridge, the speed of passenger trains must be reduced to twenty-five miles an hour and the speed of freight trains to fifteen miles an hour, until the entire train has passed the drawbridge.

General Requirements Applicable to Steam Railways for Interlocking, Derailing and Signal System at Crossings at Rail Level, at Junctions and Drawbridges.

The plan and construction of interlocking signalling and derailing system to be used at rail level crossings, junctions and drawbridges, shall conform to the following rules:—

1. Details shall be placed not less than five hundred (500') feet from the crossing point, junction point or from the ends of the drawbridge unless otherwise ordered. On single track railways derail points, when practicable, should be on inside of curve, and on double track railways the derail points should be in outside rail on both tracks. On the latter back-up derails will be required.
2. Home signals shall be placed fifty-five (55') feet in advance of derail point, and the distance between home and distant signals shall not be less than twelve hundred (1,200') feet, unless otherwise ordered. Signal post shall be placed over or on the engineman's side of the track, unless otherwise ordered.
3. Guard rails shall be laid on outside of rail in which the derail is placed, or on the inside of the opposite rail, and, commencing at least six (6') feet in advance of derail point, shall extend thence towards the crossing, parallel with and nine (9") inches distant in the clear from the track rail, for four hundred (400') feet, fully spiked. In no instance, however, should the guard rail approach within one hundred (100') feet of the diamond, junction point or end of drawbridge.
4. The normal position of all signals must indicate danger, derail points open unless otherwise ordered, and the interlocking so arranged that it will be impossible for the signalman to give conflicting signals.
5. Signals shall be of the semaphore type, the indications given by not more than three positions, and in addition at night by lights of prescribed colours.
6. The apparatus shall be so constructed that the failure of any part directly controlling a signal will cause it to give its least favourable indication.
7. Semaphore arms that govern shall be displayed to the right of the signal post, as seen from an approaching train.
8. Where switch and lock movements are used on facing point switches or derails on high speed routes they must be placed outside the rails and bolt locked with the signals governing them; when this is not practicable, facing point locks must be used.
9. The established order of interlocking shall be such that a clear signal cannot be displayed until derails or diverging switches, if any, in conflicting routes, are in their normal position, and the switches for the required route are set and locked.
10. High speed routes shall be indicated by high signals not more than three blades to be displayed on one signal post. Dwarf signals shall be used for low speed routes and for double track back-up derails.

1 GEORGE V., A. 1911

11. The blades and back lights of all signals should be visible to the signalman in the tower. If from any cause, the blade or light of any signal cannot be placed so as to be seen by the signalman a repeater or indicator should be provided.

12. Application for inspection of interlocking plant must be made to the Board, accompanied by a plain diagram, showing location of the crossing, junction or draw-bridge, and the position of all main tracks, sidings, switches, turnouts, &c., within the limits of the interlocker.

The several tracks must be indicated by letters or figures, and reference made to each, explaining the manner of its use. The rate of grade on each main track must be shown, together with the numbers of signals, derails, locks, &c., corresponding to levers in the tower.

Details.

13. The machine shall be of the latch locking type, and levers shall be numbered from left to right.

14. One lever shall operate not more than one signal.

Pipe Line.

15. One inch pipe of soft steel or wrought iron shall be used for connections to switches, derails, movable wing and point frogs, detector bars, locks, bridge couplers and home signals.

(a) Pipe lines shall be straight where possible, and shall not be placed less than four feet (4') from gauge line, except where the lines run between tracks. On draw spans and approaches they shall be kept as far from the gauge line as conditions will permit.

(b) Pipe lines shall be supported on pipe carriers, spaced not more than seven (7') feet apart.

(c) Couplings in pipe lines shall be located not less than twelve (12) inches from pipe carriers with lever on centre.

(d) Pipe connections shall be made with threaded sleeves, and the joints plugged and riveted; or keyed by other approved method.

Wire Line.

16. Wire connected signals shall be operated by wires, the back wire to have two (2") inches more stroke than the front wire.

(a) Wire lines shall be carried in wire carriers placed not more than forty (40') feet apart. Where wire lines run next to the pipe lines, the wire carriers shall be attached to the pipe carrier foundations if convenient. Where wire carriers are attached to independent foundations, they shall be placed not less than six (6') feet from gauge of nearest rail, where practicable.

By order of the Board,

A. D. CARTWRIGHT,

Secretary.

APPENDIX I.

- Abbott—Railway Law of Canada, 2 vols.
Abbott on Telephony, 6 vols.
Abbott—Electrical Transmission of Energy.
Act to Regulate Commerce, 1906.
Adams—The Block System.
Alberta Statutes, 1907-1909.
Allen—Telegraph Cases.
American Electrical Cases, 7 vols.
American and English Annotated Cases, 14 vols.; Digest, vols. 1-10.
American and English Encyclopedia of Law, 32 vols.; Supplement, vols. 3 and 4.
American and English Railroad Cases, Old Series, 61 vols.; Digest, vols. 1-35, 36-43, 2 vols.
American and English Railroad Cases, New Series, 53 vols.; Digest, vols. 1-23, 24-43, 44-53, 3 vols.; Index Digest, vol. 54.
American Railroad Corporation Reports, Lewis, 12 vols.
American Railway Reports, 21 vols. (vol. 1, Trueman; vols. 2, 3, 4 and 5, Mallory; 6, 7, 8 and 9, Shipman; 10 to 21, Ladd; Ladd includes 20 and 21, Clemens.)
Anderson's Dictionary of Law, 1 vol.
Anderson's Index Digest of Interstate Commerce Laws.
Armstrong's Digest Nova Scotia Reports, 1 vol.
Ashe—Electric Railways.
Audette—Practice of the Exchequer Court.
Baldwin—American Railroad Law.
Bartholomew—Air Brakes for Electric Cars.
Beach's Law of Railways, 2 vols.
Beach—Monopolies and Industrial Trusts.
Beach's Railway Digest, Annual, 1889.
Beal on Bailments.
Beal—Cardinal Rules of Legal Interpretation.
Beal & Wyman—Railroad Rate Regulation.
Beauchamp—Jurisprudence of the Privy Council.
Beaudry-Lacantinerie—Droit Civil.
Beavan & Walford Railway Cases.
Bell & Dunn's Practice Forms.
Beullac—Code de Procedure Civile.
Bigg's General Railway Acts 15th Ed., 1898.
Biggar's Municipal Manual, 11th Ed., 1900.
Bird's Digest British Columbia Case Law, 1 vol.
Blakemore—The Abolition of Grade Crossings in Massachusetts.
Bligh's Ontario Law Index to 1900.
Bligh & Todd—Dominion Law Index, 2nd Ed., 1898.
Booth—Street Railways.
Boulton—The Law and Practice of a Case Stated.
Bouvier's Law Dictionary, 2 vols.
Boyle & Waghorn—The Law and Practice of Compensation.
Boyle & Waghorn—The Law Relating to Railway and Canal Traffic, 3 vols.
Brassey, Lord—Fifty Years of Progress and the New Fiscal Policy.

- Brice—Tramways and Light Railways, 2nd Ed., 1902.
Brice—Ultra Vires, 3rd Ed., 1893.
British Columbia Reports, 13 vols.
British Columbia Laws, Consolidated, 1877.
British Columbia Statutes, Revised, 1897, 2 vols.
Broom's Legal Maxims, 7th Ed., 1900.
Browne's Law of Carriers.
Browne—The Law of Compensation, 2nd Ed., 1902.
Browne's Practice Before the Railway Commissioners.
Brown & Theobald—Law of Railways, 3rd Ed., 1899.
Butterworth—Practice of the Railway and Canal Commission.
Butterworth—Railways and Canals, 2nd Ed., 1889.
Byer—Economics of Railway Operation.
California Railroad Commission, Annual Report, 1908.
Calvert's Regulation of Commerce.
Canada Law Journal, vols. 41-45.
Canada and Newfoundland Gazetteer, 1909.
Canada Year Book, 1908.
Canadian Annual Digest, 1896-1909.
Canadian Annual Review, 1906-1908.
Canadian Law Review, vols. 3-6.
Canadian Law Times, vol. 28.
Canadian Railway Act, Annotated, MacMurphy and Dennison.
Canadian Railway Cases, 8 vols., MacMurphy and Dennison.
Car Builder's Dictionary, 1906.
Carmichael's Law of the Telegraph, Telephone and Submarine Cable.
Cartwright's British North America Cases, 5 vols.
Cartwright's Canadian Law List, 1906-1910.
Century Dictionary and Cyclopedia, 10 vols.
Chamber's Parliamentary Guide, 1909.
Chitty's Archbold's Q. B. Practice, 14th Ed., 1885.
Chitty's K. B. Forms, 13th Ed., 1902.
Clarke and Others—The American Railway.
Clarke—State Railroad Commissions.
Clarke—Street Accident Law, 2nd Ed., 1904.
Clements—Canadian Constitution, 2nd Ed., 1904.
Clifton, E. C., and A. Grunaux—A New Dictionary of the French and English Languages.
Clifton, E. C., and A. Grunaux—Technological Dictionary, English, German, French.
Clode—Rating of Railways.
Colson—Abrege de la Legislation des Chemins de Fer et Tramways.
Congdon's Digest Nova Scotia Reports, 1 vol.
Connors—Report of the Working of American Railways.
Cooley—Taxation, 3rd Ed., 1903, 2 vols.
Copnall—A Practical Guide to the Administration of Highway Law.
Correspondence between Board of Agriculture and Fisheries and Railway Companies of Great Britain.
Coutlee's Digest Supreme Court Reports.
Cowles—A General Freight and Passenger Post, 4th Ed., 1905.
Croswell—The Law Relating to Electricity.
Currier—Railway Legislation of the Dominion of Canada, 1867-1905.
Cyclopedia of Law and Procedure, 34 vols., Annotations, 1907-1909.
Daggett—Railroad Re-organization.

SESSIONAL PAPER No. 20c

- Dale and Lehmann's English Overruled Cases, 2 vols.
 Daniell—Chancery Forms, 5th Ed., 1901.
 Darlington—Railway and Canal Traffic Acts.
 Darlington—Railway Rates.
 Daviel—Des Cours d'Eau, 3 vols.
 Denton—Municipal Negligence (Highways).
 Dewsnup—Railway Organization and Working.
 Dictionnaire de la Langue Francaise, avec un Supplement d'Histoire et de
 Geographie—Littre et Beaujeu.
 Dictionary of Altitudes in Canada, 1903.
 Digest of American Decisions and Reports—Rapalje, 3 vols.
 Digest American Reports, 2 vols.
 Digest Canadian Case Law, 1901-1905, 1 vol.
 Digest Ontario Case Law, 4 vols.; supplement, 1 vol.
 Digest United States Supreme Court Reports, vols. 1-186, 4 vols., vols. 1-206,
 6 vols.
 Disney—Carriage by Railway.
 Dodd—Law of Light Railways.
 Dominion Statutes, 1867-1909.
 Revised Statutes of Canada, 1886, 2 vols.; 1906, 4 vols.
 Acts of the Provinces and of Canada Not Repealed by the Revised Statutes,
 1887.
 Dorsey—English and American Railroads Compared.
 Douglas—The Influence of the Railroads of the United States and Canada on
 the Mineral Industry, 1909-1910.
 Drinker—Interstate Commerce Act, 2 vols.
 Duff on Merchants Bank and Railroad Book-keeping, 20th Ed., 1888.
 Eaton—Railroad Operations—How to Know Them.
 Edwards—Railway Nationalization.
 Eddy on Combinations, 2 vols.
 Elliott on Railroads, 4 vols.
 Elliott on Roads and Streets, 2nd Ed., 1900.
 Encyclopedia Britannica, 35 vols.
 Enclopedia of the Laws of England, 2nd Ed., 15 vols.
 Endlich on Statutes.
 English Law Reports (complete set to 1909).
 English Railway and Canal Cases—Nichol—6 vols.
 English Railway and Canal Traffic Cases—Brown, Macnamara and Neville. 13
 vols.
 English Reports (reprints), 10 vols.
 English Ruling Cases, 26 vols.; Supplement, vol. 27.
 Exchequer Court Reports, 11 vols.
 Ewart's Digest Manitoba Law Reports.
 Farnham's Waters and Water Rights, 3 vols.
 Fetter—Carriers of Passengers, 2 vols.
 Finch—Federal Anti-Trust Divisions, 2 vols.
 Forney—Catechism of the Locomotive.
 Fry—Specific Performance, 3rd Ed., 1892.
 Fuzier—Herman—Code Civil, 4 vols.; Supplement, 2 vols.
 Fuzier—Herman—Repertoire du Droit Francais, 37 vols. (Vols. 13 to 37 include
 Carpentier-Saint.)
 Georgia Railroad Commission, Annual Reports, 1905-1908.
 Gilbert—American Electrical Cases, 1902-1904, vol. 8.
 Gillette, Halbert P.—Hand Book of Cost Data.

- Glen on Highways, 2nd Ed., 1897.
 Gould on Waters, 3rd Ed., 1900.
 Goodeve—Railway Passengers, 2nd Ed., 1885.
 Gray—Communication by Telegraph.
 Greene—Highways, 2nd Ed., 1902.
 Grierson—Railway Rates English and Foreign.
 Hadley—Railway Transportation (16th Impression, 1903.)
 Hadley—Railway Working and Appliances.
 Haines—American Railway Management.
 Haines—Railway Corporations as Public Servants.
 Haines—Restrictive Railway Legislation.
 Hamilton—Railway and Other Accidents.
 Hamilton—Railroad Laws of New York, 1906-1907.
 Hamlin's Interstate Commerce Acts Indexed and Digested.
 Harcastle's Statute Law, 3rd Ed., 1901.
 Hatfield—Lectures on Commerce.
 Hay, Jr.—The Law of Railway Accidents in Massachusetts.
 Henderson—Ditches and Water Courses, 1895.
 Hendrick—Railway Control by Commissions.
 High on Injunctions, 2 vols., 4th Ed., 1905.
 Hodges on Railways, by J. M. Lely, 2 vols., 7th Ed., 1888.
 Hodgins—Dominion and Provincial Legislation, 2nd Ed., 1887-1895.
 Holmsted and Langton—Ontario Judicature Act, 3rd Ed., 1905.
 Holmsted and Langton—Forms and Precedents.
 Holt—Canadian Railway Law.
 Hopkins—The Law of Personal Injuries.
 Hudson—Compensation, 2 vols.
 Hutchinson's Carriers, 3 vols., 3rd Ed., 1906.
 Hutchinson on Carriers, 2nd Ed., Mechem, 1891.
 Illinois Railroad & Warehouse Commission, Annual Report, 1905, 1906 and 1908.
 Illinois Railroad & Warehouse Commission, Special Report, 1902-1906, 1 vol.
 Index to cases Reported in Ontario Law Reports, 1905-1909.
 Index to Dominion and Provincial Statutes (to 1902) (1909)—Stewart.
 Index to Quebec Official Reports.
 Index to the Railway Acts of Canada, 1898. Vaughan.
 Interstate Commerce Commission Reports, 5 vols.
 Interstate Commerce Reports, 16 Vols.
 Jevons—The State in Relation to Labour.
 Johnson—American Railway Transportation.
 Johnson—Ocean and Inland Water Transportation.
 Jones—Telegraph and Telephone Companies (1906).
 Joyce—Electric Law.
 Judson—Interstate Commerce.
 Kant's Index to cases Judiciously Noticed in the Law Reports.
 Keasbey—Electric Ways, 2nd Ed., 1900.
 Kerr—Injunctions, 4th Ed., 1903.
 Kirkman—The Science of Railways, 12 vols.
 Latleur—Conflict of Laws.
 Langelier—Cours de Droit Civil, 4 vols.
 Langelier—De la Preuve.
 Langstroth & Stilz—Railway Co-operation.
 Larombiere, 5 vols.
 Laurent—Droit Civil, 33 vols; Supplement, 8 vols.
 Law Times Reports, 100 vols.

SESSIONAL PAPER No. 20c

- Legal News, 20 vols.
 Lefroy's Legislative Power in Canada.
 Leggett—Bills of Lading.
 Lewis—Eminent Domain, 2 vols. 2nd Ed., 1900.
 Lewis' Sutherland—Statutory Construction, 2 vols., 2nd Ed., 1904.
 Louisiana Railroad Commission Annual Report, 1905.
 Lovell's Compendium, 1907-1908.
 Lovell's Gazetteer of the Dominion of Canada.
 Lower Canada Jurists, vols. 1-34.
 Lower Canada Reports, 17 vols.
 MacMillan, H. R., and G. A. Gutches—Forest Products of Canada, 1908.
 Macnamara—Law of Carriers.
 Manitoba Law Reports, 17 vols.
 Manitoba Reports, Temp. Wood, 2 vols.
 Manitoba Statutes, 1871 to 1909.
 Manitoba Statutes Revised, 1891, 2 vols.; 1902, 1 vol.
 Mann—Massachusetts Railroad and Railway Laws.
 Massachusetts Railroad Commissioners' Annual Report, 1905-1909.
 Mathieu, M.—Code Civil de la Province de Quebec.
 Maxwell on Statutes, 4th Ed., 1905.
 Mayne on Damages, 7th Ed., 1903.
 McDermot—Railways.
 McLean, S. J.—Georgian Bay Canal.
 McPherson & Clarke—Law of Mines.
 McPherson—Railroad Freight Rates in Relation to the Industry and Commerce of the United States.
 McPherson—The Working of the Railroads.
 Merritt—Federal Regulation of Railway Rates.
 Mews' Digest English Case Law, 16 vols.; Annual Supplements, 1898-1908.
 Meyer—British State Telegraphs.
 Meyer—Government Regulation of Railway Rates.
 Meyer—Municipal Ownership in Great Britain.
 Meyer—Public Ownership and the Telephone in Great Britain.
 Meyer—Railway Legislation in the United States.
 Michigan—Annual Report of the Commissioner of Railroads, 1904-1908.
 Michigan Railroad Laws, 1905-1907.
 Mignault, 8 vols.
 Minnesota—Annual Report of the Railroad and Warehouse Commission, 1891-1897; 1899-1908.
 Mississippi—Report of the Railroad Commissioners, 1903 and 1909.
 Missouri—Report of the Railroad and Warehouse Commissioners, 1904-1905.
 Montreal Directory, 1909-1910.
 Montreal Law Reports, S.C., 7 vols., Q.B., 7 vols. Digest by Saint Cyr.
 Moore on Carriers.
 Murray's English Dictionary, 7 vols.
 Nebraska State Railway Commission—Laws of Nebraska Relating to Railroads and other Common Carriers.
 Nellis—Street Railroad Accident Law.
 Nellis—Street Service Railroads.
 Nelson—The Anatomy of Railroad Reports.
 Nelson—Interstate Commerce Commission.
 New Brunswick Equity Reports, 3 vols.
 New Brunswick Reports, 38 vols.
 20c—26

- New Brunswick Statutes, 1867-1909
Consolidated Statutes, 1877, 1 vol.; 1903, 2 vols
- Newcombe—Railway Economics.
- Newcombe—Work of the Interstate Commerce Commission.
- New Jersey—Report of the Board of Railroad Commissioners, 1907.
- New York—Report of the Railroad Commissioners, 1902, 1903, 1905-1906.
- Northwest Territories Ordinances, 1878-1905.
Consolidated Ordinances, 1898.
General Ordinances, 1905.
- Nouveau Dictionnaire Anglais-Francais et Francais-Anglais.
- Nova Scotia Judicature Act, 1900.
- Nova Scotia Reports, 42 vols.
- Nova Scotia Reports, Young's Admiralty, 1 vol.
- Nova Scotia Statutes, 1865-1909.
Revised Statutes, 4th Series, 1871.
5th Series, 1884.
1900, 2 vols.
- Noyes—American Railroad Rates.
- Nutt, D.—Technological Dictionary, French, German, English.
- O'Brien's Conveyancer, 3rd Ed., 1906.
- Official Postal Guide of Canada, 1904-1906.
- Oklahoma—Report of the Corporation Commission, 1908.
- Ontario Railway Digest, 1 vol.
- Ontario Statutes, 1867-1909.
Revised Statutes, 1877, 2 vols.; 1887, 2 vols.; 1897, 3 vols.
Statutes of the Province of Canada and Dominion of Canada.
Affecting Ontario, 1877.
- Ottawa Directory, 1908, 1909.
- Oxley's Light Railways, 2 vols.
- Paine—The Law of Bailments.
- Paish—The British Railway Position.
- Parsons—The Heart of the Railway Problem.
- Parsons—Railway Companies and Passengers.
- Patterson—Railway Accident Law.
- Pierce—Digest of Decisions Under Act to Regulate Commerce, 1887-1908.
- Piggott's Imperial Statutes, 2 vols., to 1903.
- Pollock—Bill of Lading Exceptions, 2nd Ed., 1895.
- Poor's Manual of Railroads, 1905-1908.
- Postal Guide of Canada (Official),- 1904-1906.
- Pratt—American Railways.
- Pratt—German *versus* English Railways.
- Pratt and McKenzie—Highways, 15th Ed., 1905.
- Pratt—Railways and their Rates.
- Prentice—Federal Powers over Carriers and Corporations.
- Prince Edward Island Reports, 2 vols.
- Prince Edward Island Statutes, 1867-1907.
- Quebec Statutes, 1868-1909.
Revised Statutes, 1888, 2 vols. Supplement, 1889.
Statuts de Quebec, 1866-1909.
Statuts Refondus de la Province de Quebec, 1888, 2 vols.
Compléments des Statuts de Quebec, 1888.
- Railways and Canals Report, 1902, 1903, 1905.
- Railways in the United States, 2 vols., 1902.
- Ramsay & Morin Reports.

SESSIONAL PAPER No. 20c

- Rapalje & Mack's Digest of Railway Law, 8 vols.
 Rapports Judiciaires Officiels de Quebec, C.B.R., 17 vols.; C.S., 34 vols.
 Ray—Negligence of Imposed Duties—Passenger Carriers.
 " " Freight Carriers.
 Redfield—The Law of Railways, 2 vols.; 6th Ed., 1888.
 Redman—Arbitration and Awards, 4th Ed., 1903.
 Redman—Law of Railway Carriers, 2nd Ed., 1880.
 Reese on Ultra Vires.
 Revue de Jurisprudence, 14 vols.
 Revue Légale, Old Series, 22 vols.
 New Series, 13 vols.
 Richardson and Hook—American Street Railway Decisions, 2 vols.
 Richards and Soper—Compensation.
 Ripley—Railway Problems.
 Robertson—Tramways, 3rd Ed. of Sutton's Tramway Acts of the United Kingdom.
 Robinson and Joseph's Law and Equity Digest, 2 vols.
 Roscoe's Nisi Prius, 2 vols., 17th Ed., 1900.
 Ross—British Railways.
 Rover—Railroads, 2 vols.
 Russell—Arbitration, 9th Ed., 1906.
 Russell and Bayley—Indian Railways Act, 1890, 2nd Ed., 1903.
 Russell's Equity, 1 vol.
 Saskatchewan Reports, 1 vol.
 Saskatchewan Statutes, 1906-1908.
 Scott—Law of Telegraphs.
 Schouler—Bailments and Carriers, 3rd Ed., 1897.
 Scrutton—Charter parties and Bills of Lading, 5th Ed., 1904.
 Seton on Decrees, 3 vols., 6th Ed., 1901.
 Sirey—Code Civil, 3 vols.
 Smith, J. Russell—The Organization of Ocean Commerce.
 Snyder—American Railways as Investments.
 Snyder—Annotated Interstate Commerce Act and Federal Anti-Trust Laws.
 Sourdat, 2 vols.
 South Carolina, 30th Annual Report of the Railroad Commission, 1908.
 Statistics of Railways in the United States in 1888 to 1907.
 Statutes Relating to the City of Toronto, 1894.
 Stephens' Digest Railway Cases.
 Stevens' Digest New Brunswick Reports, 1 vol., 3rd Ed.
 Stephens' Quebec Digest, 4 vols.
 Stickney—The Railway Problem.
 Streets' Foundation of Legal Liability, 3 vols.
 Street Railway Reports, 2 vols.
 Stroud's Judicial Dictionary, 3 vols.
 Supreme Court of Canada Reports, 41 vols.
 Sutherland on Damages, 4 vols., 4th Ed., 1903.
 Talbot and Fort's English Citations, 1865-1890.
 Taschereau—The Criminal Code, 3rd Ed., 1893.
 Taschereau's Thèse du Cas Fortuit.
 Taylor on Evidence, 2 vols., 10th Ed., 1906.
 Territories Law Reports, 5 vols.
 Texas—Report of the Railroad Commission of Texas, 1905, 1907, 1908.
 La Thémis, 5 vols.
 Theoret, C.—Code de procédure Civil, Montréal.

Thompson—Law of Electricity.

Thornton—Railroad Fences and Private Crossings.

Tiedeman—Municipal Corporations in the United States.

Toronto Directory, 1906-1909.

United States Supreme Court Reports, Law. Ed., 53 books, including vols. 1 to 210, 211-214.

Van Zile—Bailments and Carriers.

Virginia—Report of the State Corporation Commission, 1905, 2 vols.; 1906, 2 vols.; 1907, 1 vol.

Waghorn—Traders and Railways.

Webb's Economics of Railroad Construction.

Websters' Collegiate Dictionary.

Weir's Assessment Law of Canada.

Weld—Private Freight Cars and American Railways.

Wellington—The Economic Theory of Railway.

Wellington, A. M.—Economical Theory of Railway Location.

Weyl—Passenger Traffic of Railways.

Whitaker's Almanac, 1904.

Wigmore on Evidence, Can. Ed., 5 vols.

Wilson—Safety of British Railways, The.

Wisconsin—Report of the Railroad Commission, 1906.

Woodfall—Railway and Canal Traffic.

Wood—Railway Law, 3 vols., 2nd Ed., 1894.

Words and Phrases Judically Defined, 8 vols.

York—Report on a visit to America.

Yukon Territory Ordinances, 1903 to 1906 and 1909.

Consolidated Ordinances, 1902.

SESSIONAL PAPER No. 20c

APPENDIX J.

STATEMENT Showing Applications Made to the Board under the Various Sections of the Railway Act for the Year ending March 31, 1910.

Amending of Orders..	Section 29..	33
Rules and Regulations..	Sections 30, 307, 313, 269..	37
Sunday Labour..	Section 44..	2
Extension of Time..	Section 50..	4
Location of Line..	Sections 157-168..	119
Route Map..	Section 157..	29
Correction of Plans..	Section 162..	8
Ry. "As Constructed"..	Section 164..	29
Revised Location..	Section 167..	52
Expropriation of Lands..	Sections 172-191..	14
Compensation of Damages..	Sections 192-214..	2
Branch Lines..	Sections 221-226..	294
Ry Crossings and Junctions..	Sections 227-228..	65
Interlocking Appliances..	Section 227..	5
Highway Crossings..	Sections 235-243..	533
Highway Diversions..	Section 237..	37
Protection at Crossings..	Section 243..	331
Telegraph and Telephone Connections..	Section 245..	13
Telegraph Wire Crossings..	Section 246..	30
Telephone Wire Crossings..	Section 246..	970
Power Wire Crossings..	Section 246..	270
Telephone Agreements..	Section 248..	6
Water Pipes..	Section 250..	87
Gas Pipes..	Section 250..	52
Sewers..	Section 250..	75
Culverts..	Section 250..	5
Farm Crossings..	Sections 252-253..	12
Protection at Farm Crossings..		3
Cattleguards..	Sections 254-255..	1
Fencing of Right of Way..	Section 254..	5
Bridge, &c..	Section 257..	310
Tunnels..	Sections 256-257..	28
Stations..	Section 258..	65
Condition of Stations..	Section 258 Rep..	487
Opening of Railway..	Section 261..	42
Condition of Railway..	Section 262, Rep..	65
Rolling Stock Reports..	Sections 263-268..	97
Train Service..	Section 264..	19
Obstruction of Traffic..	Section 279..	3
Accommodation for Traffic..	Section 284..	21
Packing of Frogs..	Section 285..	12
Accident Reports..	Sections 292-293..	892
Thistles and Weeds..	Section 296..	1
Fire from Locomotives..	Sections 297-298..	1
By-Laws-Tolls..	Section 314..	9
Equality in Tolls..	Sections 315-320..	7
Discrimination Facilities..	Section 317..	1
Interswitching..	Sections 317-334..	9
Freight Classification..	Section 321..	9
Forms of Tariffs..	Sections 322-339..	2
Disallowance of Tariffs..	Section 323..	1
Standard Freight Tariffs..	Section 327..	12
Standard Passenger Tariffs..	Section 331..	9
Special Tariffs..	Sections 328-332..	12
Joint Tariffs..	Section 335..	4
Provisions for Carriage..	Sections 340-342..	5
Telephone Tolls..	Sections 355-360..	3
Amalgamation Agreements..	Sections 361-363..	6
Refunds..		22
Inquiries..		304
Requests..		69
Complaints..		494
Appeals to Supreme Courts..		5
Total..		6 148

APPENDIX K.

LIST of Cases Appealed to the Supreme Court Since February 1, 1904, to March 31, 1910.

1. File 1114, Montreal Terminal Railway vs. Montreal Street Railway, Pius IX. Avenue crossing. Appeal from order of the Deputy Chief Commissioner and Commissioner Mills on question of jurisdiction. Appeal allowed.

2. File 1492, James Bay Railway vs. Grand Trunk Railway crossing Belt Line Spur. Appeal to the Supreme Court on question of law. Appeal dismissed.

3. File 383, Canada Atlantic Railway, Ottawa Electric Railway and City of Ottawa *re* Bank Street Subway. Appeal of the Ottawa Electric Railway on question of law. Appeal dismissed.

4. File 588, *re* Toronto Union Station, A. R. Williams Expropriation. Appeal to the Supreme Court and then to the Privy Council, England, on question of jurisdiction. Appeal dismissed.

5. File 1604. Case 1309. Robinson vs. Grand Trunk Railway two-cent rate. Appeal to the Supreme Court and then to the Privy Council, on question of law. Appeal dismissed.

6. File 689, Canadian Pacific Railway vs. Grand Trunk Railway *re* branch line, London, Ont. Grand Trunk Railway Company appeal to Supreme Court on question of jurisdiction. Appeal dismissed.

7. Case 1680. Essex Terminal and W.E. & L.S.R.R. Co., crossing. Township of Sandwich. Appeal by the Essex Terminal Railway to the Supreme Court on question of law. Appeal dismissed.

8. File 1497. T. D. Robinson and Canadian Northern Railway Spur at Winnipeg. Appeal to the Supreme Court by the Canadian Northern Railway Company on question of jurisdiction. Appeal dismissed.

9. File 9527, Montreal Street Railway *re* rates Montreal Royal Ward. Appeal by the Montreal Street Railway to the Supreme Court of Canada on question of jurisdiction. Appeal allowed.

10. File 8644. Case 4719. *Re* Agriculture Department, Province of Ontario and Grand Trunk Railway Company, Station at Vineland. Appeal to the Supreme Court of Canada by the Railway Company on question of jurisdiction. Appeal dismissed.

11. Case 3322, *re* Toronto Viaduct. Appeal to the Supreme Court by the Canadian Pacific Railway Company on question of law. Appeal dismissed.

12. Case 4813, *re* Fencing and Cattle Guards. Order No. 7473. Appeal to the Supreme Court by the Canadian Northern Railway Company on question of jurisdiction. Appeal allowed in part.

13. File 9351. Case 4492. City of Toronto and Grand Trunk Railway and Canadian Pacific Railway Companies *re* commutation tickets. Stated case to the Supreme Court by City of Toronto on question of law

14. File 5999. Case 2545. *Re* City of Ottawa and County of Carleton, Richmond Road Viaduct. Appeal by County of Carleton, on question of jurisdiction. Appeal dismissed.

15. File 13079. Grand Trunk Railway and Canadian Northern Ontario Railway spur, township of Scarboro. Appeal to the Supreme Court by Grand Trunk Railway Company on question of jurisdiction. Appeal dismissed.

SESSIONAL PAPER No. 20c

16. File 7529. Case 3269. Grand Trunk Railway and British American Oil Company. Oil rate. Appeal to the Supreme Court by Grand Trunk Railway Company on question of law. Stands for judgment

17. File 1519. Grand Trunk Pacific Railway and Fort William *re* location. Appeal by Grand Trunk Pacific to the Supreme Court of Canada, on question of jurisdiction. Stands for judgment.

18. File 11965. Niagara, St. Catharines and Toronto Railway and Davy. Appeal to the Supreme Court by the Niagara, St. Catharines and Toronto Railway Company on question of jurisdiction. Appeal allowed.

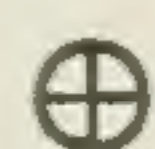
19. File 9527. Montreal Street Railway *re* rates Mount Royal Ward. Appeal by the Montreal Park & Island Railway Company, to the Supreme Court of Canada on the question of jurisdiction. Appeal allowed.

LIST of Cases Appealed to the Governor in Council from February 1, 1904, to March 31, 1910.

1. File 399. Bay of Quinte Railway, crossing Canadian Pacific Railway at Tweed. Appeal to the Governor in Council by the Bay of Quinte Railway. Order of the Board set aside and former order of the Railway Committee confirmed.

2. File 1455. James Bay Railway vs. Grand Trunk Railway crossing near Beaverton. James Bay Railway Company appeal to the Governor in Council. Appeal dismissed.

3. File 1780. *Re* Chatham Street crossings. Grand Trunk Railway Company. Appeal by Grand Trunk Railway to the Governor in Council. Appeal dismissed.



FORTY-THIRD ANNUAL REPORT

OF THE

DEPARTMENT OF MARINE AND FISHERIES

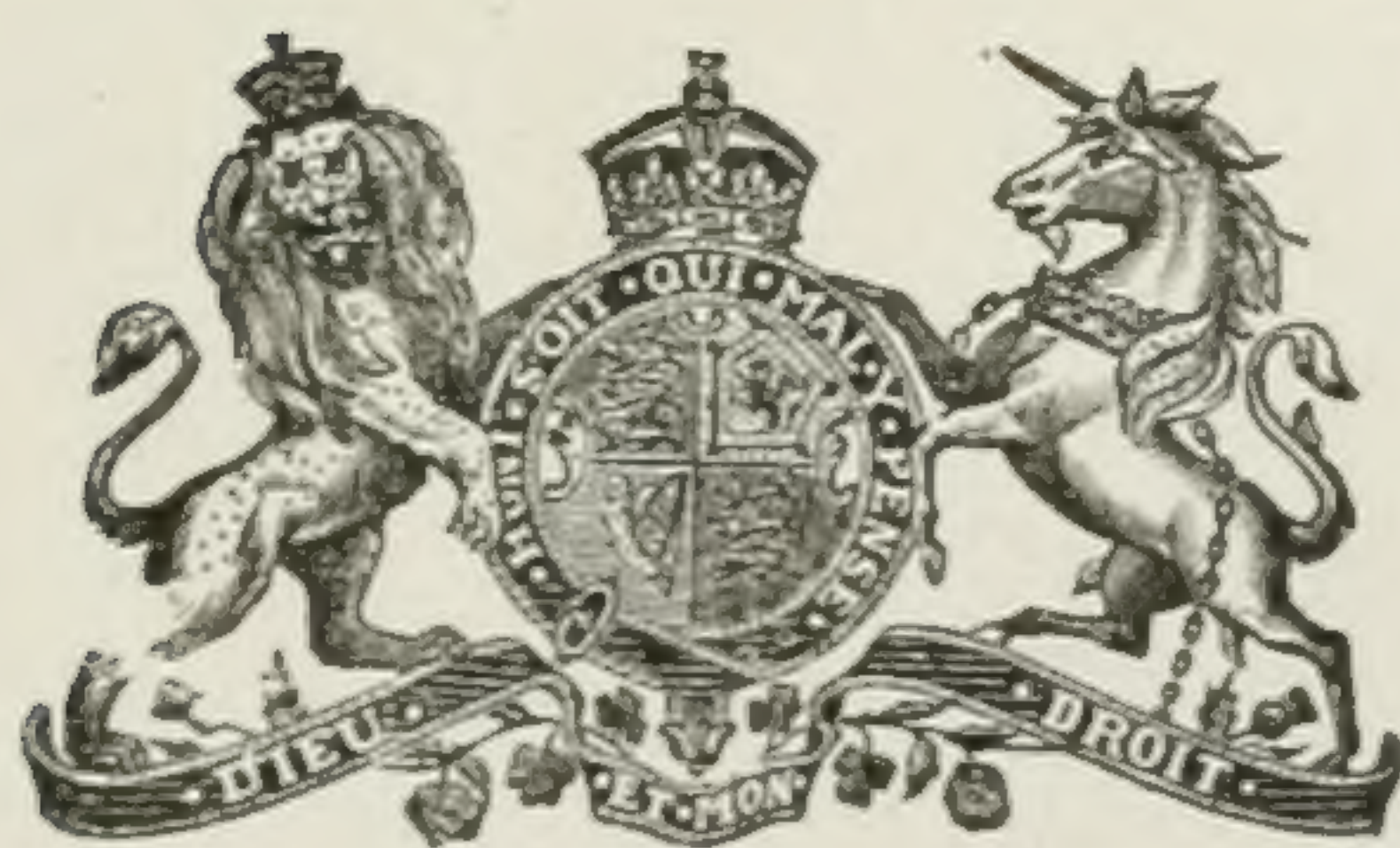
ERRATA.

On page 45, Wrecks and Casualties, the value of the sea-going vessels lost should read \$770,383. (Typographical error).

On page 51, under the heading Montreal Harbour Commission, first line of paragraph should read December instead of September. Typographical error).

On page 52 in the statement of expenditure on capital account of the Montreal Harbour Commission, the balance paid on locomotives should read \$2,228 instead of \$26,228.

On page 59 in the first line of the last paragraph read 'consisted of' instead of 'considered.'

PRINTED BY ORDER OF PARLIAMENT

OTTAWA

PRINTED BY C. H. PARMELEE PRINTER TO THE KING'S MOST
EXCELLENT MAJESTY

1910

[No. 21—1911.]